

## **THE KERALA CO-OPERATIVE SOCIETIES ACT 1969**

The following are the important definitions as per Rule 2

- (a) "Act" means the Kerala Co-Operative Societies Act 1969.
- (b) "Decree" means any order, decision or award referred to in section 70 of the Act.
- (c) "Decree holder" means any person holding a decree or legal assignees of the decree.
- (d) "Default" means the failure on the part of any person to repay the financing bank or to any other society a loan or any other amount due to it within the time fixed for the repayment or to return to the society within the time fixed the finished goods in respect of raw materials advanced or to keep any other obligation for the fulfillment of which a time limit has been specified in the bye-laws.
- (e) "Defaulter" means any co-operative society against which or any person against whom a decree has been obtained.
- (f) "Form" means a form set out in Appendix II
- (g) "Net profit" means net profit as certified by the Registrar.
- (h) "Person" includes the Government and a Co-operative Society.
- (i) "Sale Officer" means an officer of any Department empowered by the Registrar by general or special order to conduct the attachment and sale or sale without attachment of the property of defaulters, or to execute the order or decision of the Registrar in regard to the attachment and sale or sale without attachment of the property of the defaulter.

(j) "Section" means a section of the Act.

(k) "Working Capital" means such portion of the Reserve Fund, other funds, paid up share capital, loans and deposits received by a society and debentures issued by a society as have not been invested in buildings and other fixed assets.

### **Registration of Co-operative Societies Registrar [Sec. 3]**

(1) The Government may appoint a person to be the Registrar of Cooperative Societies for the State.

(2) The Government may by general or special order confer on any person all or any of the powers of the Registrar under this Act.

### **Societies which may be registered [Sec. 4]**

Subject to the provisions of this Act, a cooperative society which has as its object the promotion of the economic interests of its members or of the interests of the public in accordance with cooperative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act.

### **Registration with limited liability only [Sec. 5]**

1. A cooperative society shall be registered only with limited liability: Provided that the sub-section will not affect the rights and liabilities of societies with unlimited liability which are in existence at the time of commencement of this Act.
2. The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a society registered under this Act with limited liability.

## **Application for registration of cooperative societies [Sec. 6]**

1. An application for the registration of a cooperative society shall be made to the Registrar in such form as may be prescribed and the applicant shall furnish to him such information about the society as he may require.
2. Every such application shall conform to the following requirements, namely:-
  - (a) the application shall be accompanied by three copies the proposed bye-laws of the society; and
  - (b) where all the applicants are individuals, the number of applicants shall not be less than twenty-five, each of such persons being a member of a different family.
  - (c) the application shall be signed by every one of the applicants who is an individual and by a person duly authorized on behalf of the Government or any society or other body of persons which is an applicant.

## **Registration [Sec. 7]**

(1) If the Registrar is satisfied –

- (a) that the application complies with the provisions of this Act and the rules;
- (b) that the objects of the proposed society are in accordance with section 4;
- (c) that the area of operation of the proposed society and the area of operation of another society of similar type do not overlap;
- (d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and (e) that the proposed society complies with the requirements of sound business; He may register the society and its bye-

laws [within a period of ninety days from the date of receipt of the application.]

(2) Where the Registrar refuses to register a society, he shall communicate the order of refusal together with the reasons therefore within seven days of such order to such of the applicants as may be prescribed.

(3) An application for registration of a society shall be disposed of by the Registrar [within ninety days] from the date of receipt of the application.

(4) Where an application for registration of a society is not disposed of within the time specified in sub-sec. (3), the applicant may make a representation – (a) before the Registrar, if the application for registration is made to a person on whom the powers of the Registrar is conferred under sub-section (2) of Sec. 3, or (b) before the Government, if the application for registration is made before Registrar, and the Registrar or the Government, as the case may be, shall within sixty days from the date of receipt of such representation, issue directions, to the authority concerned, to take appropriate decision on the application for registration and the authority concerned shall comply with such directions.

Registration Certificate [Sec. 8] –

Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed and sealed by him, which shall be conclusive evidence that the said society is duly registered under this Act.

### **Affiliation to apex society [Sec. 8A]**

(1) Every Primary Co-operative Society or Central Co-operative Society may within such time and in such manner, as may be prescribed, apply for affiliation to the concerned apex society or Central Society as the case may be.

(2) Where the apex society or central society does not, within sixty days from the date of receipt of the application for affiliation, determine whether such affiliation should be given or not, such affiliation shall be deemed to have been given to the applicant society from the date on which the said period of sixty days expires

(3) When the apex or central society, as the case may be, rejects an application for affiliation under sub-section (1), the aggrieved society may file an appeal before the Registrar against such rejection within thirty days from the date of receipt of the order of rejection and the Registrar shall dispose the appeal within sixty days from the date of appeal.

### **Co-operative Societies to be bodies corporate [Sec. 9]**

The registration of a society shall render it a body corporate by the name under which it is registered, having perpetual succession and a common seal and with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

### **Changes of name of society [Sec. 10]**

(1) A society may change its name by an amendment of its bye-laws and the Registrar shall enter the new name in the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.

(2) The change of name of a society shall not affect any rights or obligations of the society or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

## **Change of liability [Sec. 11]**

(1) Subject to the provisions of this Act and the rules a society may, by an amendment of its bye-laws, change the form or extent of its liability.

(2) When a society has passed a resolution to change the form or extent of its liability it shall give thereof in writing to all its members and creditors and notwithstanding the provisions of Sec. 24 or any bye-laws or contract to the contrary, any member or creditor shall, during a period of two months from the date of service of notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have given his assent to the change.

(4) An amendment of the bye-laws of a society changing the form or extent of its liability shall not be registered or take effect until either –

a) the assent thereto all members and creditors has been given or deemed to have been given; or

b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

## **Bye Law**

Bye-laws means a set of rules governing the relationship between the society and its members and provide guidance for general administration, conduct of business etc. At the time of Registration of society, the Registrar shall approve and register the bye-laws of the society and issue to the society a copy of the registered bye-laws along with the certificate of registration. Any alteration or amendment in any

of the provisions of the bye-laws shall be carried out only with the approval of the general body and sanction of the Registrar. Amendments of bye-laws shall also be registered by the Registrar.

### **Model Bye-laws**

Rule 6 of Kerala Co-operative Societies Act states that it shall be competent to the Registrar to frame model byelaws for each class or classes of societies and to suggest modifications there to from time to time. Such model byelaws shall be adopted by a society, with such modifications, if any, as may be suggested b the society, and agreed to by the Registrar of co-operative societies.

### **Amendments to byelaws of a society**

Section 12 and 13 and Rule 9 of the Rules under the Kerala Co-operative Societies Act, 1969 lay down the provisions and procedure for the amendment of bye-laws of a society. The managing committee of the society shall first examine the proposed amendments to the bye-laws, approve the same and adopt necessary resolutions in that respect. After that, the proposed amendments should be placed before the general body meeting for its consideration after due notice has been given to the members in accordance with the byelaws. In the notice for the general body the existing provisions of the bye-laws and the amendments proposed should be directly shown. Notice or intimation of the amendments proposed should be given to the members of the society either in person and obtained their full signature in token of having received the same or sent by post under certificate of posting. Otherwise the resolutions of the general body approving the amendments will notbe considered valid. The resolution approving the amendments should be passed at general body by at least a two-third majority of the members present and voting. Such resolutions shall be forwarded to the Registrar within one month of

the date of the general body meeting at which the amendment was passed along with an application requesting for the registration of amendment. The application for registration of amendments shall be signed by the secretary and two members of the committee and shall contain the following particulars –

- i) the date of the general body meeting at which amendment was made.
- ii) the number of days' notice given to convene the general body meeting.
- iii) the number of days' notice required as per the bye-laws for the general body meeting.
- iv) the total number of members of the society on the day of such meeting.
- v) the number of members present at such meeting.
- vi) the number of members to form the quorum for such meeting.
- vii) the number of members who exercised their franchise at the meeting.
- viii) the number of members who voted for the amendment.

The proposal shall also be accompanied by:-

- a) copy of the relevant bye-laws in force with amendments proposed to be made in pursuance of the resolution, together with reasons justifying such amendments.
- b) four copies of the text of the bye-laws as it would stand after amendment, signed by officers authorized in this behalf by the committee of the society.

Registration of amendments

The Registrar shall before registering an amendment of any bye-law consult

- (a) the State Co-operative Union if the proposed amendments are those of an apex or central society or
- (b) the Circle Co-operative Union if the bye-laws that are to be amended are those of any other society and
- (c) the financing bank if the society is indebted to the financing bank.



In the event of registration of the amendments, the Registrar shall forward to the society, a copy of the registered amendment together with a certificate of registration signed and sealed by him. Such certificates shall be conclusive evidence that the amendment has been duly registered. When the Registrar refuses to register an amendment he shall communicate to the society the order of refusal together with the reason therefore within seven days of the order.