



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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No. 44 Dispur, Thursday, 7th February, 2019, 18th Magha, 1940 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
ASSAM LEGISLATIVE ASSEMBLY SECRETARIAT

NOTIFICATION

The 28th January, 2019

No. LLE07/2019/08.- The following Bill introduced before the House on 28th January, 2019 together with the Statement of Objects and Reasons are to be published under Rule 71 of the Rules of Procedure and Conduct of Business in Assam Legislative Assembly for General information.

THE ASSAM COOPERATIVE SOCIETIES (AMENDMENT) BILL, 2019

A

BILL

further to amend the Assam Cooperative Societies Act, 2007.

Whereas it is expedient to amend the Assam Cooperative Societies Act, 2007, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

It is hereby enacted in the Seventieth Year of the Republic of India as follows:-

Assam
Act
No.IV of
2012

Short title, extent and commencement

- 1 .(1) This Act may be called the Assam Cooperative Societies (Amendment) Act, 2019
- (2) It shall have the like extent as the Principal Act.
- (3) It shall come into force at once.

Amendment of section 10

- 2 . In the principal Act, in section 10, in sub-section (1), in clause (e), for the existing provision, the following shall be substituted, namely :-

“(e) a copy of treasury challan or proof of electronic payment as an evidence in support of payment of registration fee calculated as per the provisions of sub-section (1) of section 17 which shall be non-refundable.”

Amendment of section 17

- 3 . In the principal Act, in section 17, in sub-section (1), in between the word “challan” and “along” , the words and punctuation marks “or by electronic payment, as the case may be,” shall be inserted.

Amendment of section 31

- 4 . In the principal Act, in section 31, after the word “year” appearing at the end, the words “ from the date of election of the Directors” shall be inserted.

Amendment of section 33

- 5 . In the principal Act, in section 33, in sub-section (4), for the words “this bye-laws” appearing in between the words “provided in” and the punctuation mark “,”, the words “the bye-laws” shall be substituted.

- Amendment of section 35
6. In the principal Act, in section 35, in sub-section (2), for the words “fifteen numbers of Directors” appearing in between the words “consist of” and the punctuation mark “:”, the words “maximum twenty one number of Directors” shall be substituted.
- Amendment of section 40
7. In the principal Act, in section 40, in sub-section (4), for the existing provisions of clauses (c) and (e), the following shall be substituted, namely :-
- “(c) not conducting the meetings of the Board under sub-section (3) of section 43 or delegates or representatives under sub-section (4) of section 41 ;” ;
- “(e) automatic dissolution under sub-section (4) of section 41 ;” .
- Amendment of section 84
8. In the principal Act, in section 84, in clause (h), for the words “laid before the Assam Legislative Assembly” appearing in between the words “shall be” and “by”, the words “submitted to the State Government”, and for the figure and word “120 days” appearing in between the words “expiry of” and “days”, the figure and word “210 days” respectively, shall be substituted.
- Amendment of section 100
9. In the principal Act, in section 100, in sub-section (5), for the punctuation mark “.” appearing at the end, the punctuation mark “:” shall be substituted and thereafter the following provisos shall be inserted, namely :-
- “Provided that for reasons beyond the control of the liquidator, more time is required for completion of the liquidation proceeding, the Registrar, for reasons to be recorded in writing with adequate justification, may grant an extension of the time shown in the certificate of dissolution which shall not exceed one year beyond the period of eight years from the date of appointment of the liquidator :

Provided further that if the dissolution could not be effected within the extended period of one year for reasons beyond the control of the liquidator and further extension of time is necessary under compulsive circumstances, the matter shall be referred by the Registrar to the Government in the Administrative Department, for further extension of time, which shall not exceed one year at a time or for arriving at a decision to effectuate the dissolution in a time bound manner, as may be deemed fit and proper.” .

STATEMENT OF OBJECTS AND REASONS

In a bid for diversified economic development of the State, several mills were established under cooperative sector under the provision of the Assam Cooperative Societies Act, 1949 (now repealed and enacted as the Act No. IV of 2012). Besides, several State level cooperative societies had also come up under the relevant provision of the Assam Cooperative Societies Act, 2007.

All those mills and State level cooperative societies could not sustain themselves due to one or other reasons and had to be de-registered. The Assam State Cooperative Marketing & Consumer Federation Ltd.(STATFED) has to be de-registered on 14-06-2006 sending the organization on liquidation. Likewise, for continuous losses the two Spinning mills namely, the Assam Cooperative Spinning Mill Ltd., Boitamari and the Swahid Kushal Konwar Sutakol Ltd, Dabidubi, Golaghat were de-registered in 2010. Two more mills namely, the Assam Cooperative Sugar Mill Ltd, Baruabamungaon and the Nowgong Cooperative Sugar Mill Ltd., Kampur had to be de-registered in the year 2010. All those mills were put to liquidation and liquidators had been appointed as per provision of Section 95(1) of the Act.

Meanwhile, the Assam Cooperative Societies Act, 1949 has been repealed and the Assam Cooperative Societies Act, 2007 which received the accent of the President of India in 2012 has been put to place. As per the existing provision of sub-Section (5) under Section 100 of the Assam Cooperative Societies Act, 2007, the liquidation process has to be completed within 8 years after the appointment of the liquidator. However, due to court cases and several reasons beyond the control of the liquidators, the process of liquidation could not be completed as yet which warrants amendment of Section 100(5) of the Act authorizing to extend the period beyond 8 years.

For effective implementation of the provisions of the Assam Cooperative Societies Act, 2007, a few more amendments are required in connection with application for registration, term of Board of Directors, special general meeting, number of members in a Board, eligibility for a director in cooperative society and period of submission of audit report.

Hence the Bill:

RIHON DAIMARI,
Minister,
Cooperation.

M. K. DEKA,
Principal Secretary,
Assam Legislative Assembly.

FINANCIAL MEMORANDUM

The Bill will not require any expenditure from the Consolidated Fund of the State once it comes into force.

RIHON DAIMARI,
Minister,
Cooperation.

MEMORANDUM OF DELEGATED LEGISLATION

There is no delegation of legislative powers proposed in the Bill.

RIHON DAIMARI,
Minister,
Cooperation.

**EXTRACT OF THE EXISTING SECTIONS OF THE
ASSAM COOPERATIVE SOCIETIES ACT 2007**

10. Application for registration- (1) For the purpose of registration, an application thereof shall be submitted to the Registrar in the form as may be prescribed, by hand or by registered post signed by at least ten persons or such number of persons as may be fixed by the Registrar, qualified under Section 5 of the Act, read with sub-section (5) of Section 4 who wish to form a primary cooperative society or by a duly authorized person on behalf of atleast three such registered cooperative society who wish to form a secondary cooperative society. The person by whom or on whose behalf such application is made, shall furnish such information in regard to the proposed cooperative society as the Registrar may require. Every such application shall be accompanied by the original declaration signed by applicants expressing commitment to the cooperative principles specified in **Schedule-A** and the following:-

- (a) four copies of the proposed bye-laws of the cooperative society as adopted by the applicants;
- (b) a true copy of the resolution passed at a meeting by the applicants adopting the bye-laws;
- (c) a list of names of the applicants with their complete addresses, occupation and equity participation and other details;
- (d) a scheme regarding viability of the proposed society, economically, financially, technically and cooperatively;
- (e) a copy of treasury challan in support of payment of registration fees calculated in accordance with the provisions of sub-section (1) of Section 17 which shall be non refundable and shall furnish such other information in regard to the society as the Registrar may require.

17. Fees etc.- (1) Registration fees amounting to one percent of the proposal authorised share capital of the proposed cooperative society shall have to be deposited by Treasury Challan along with the application for registration of the proposed cooperative society. [The Registrar may, however, revise the registration fees from time to time on merit and on case to case basis maximum of which shall not exceed 50% of the registration fees calculated under this section.]

(2) Subject to the provisions of sub-section (3) of Section 81 and sub-section (2) and (6) of Section 87 respectively, the Registrar may by order prescribe a scale of fees to be paid by a cooperative society for various services rendered by him under this Act.

31. Term of the Board- The term of the Board shall be [five] Cooperative year.

33. Special General Meeting- (1) The Board may call a special general meeting and shall be bound to do so within forty five days of the date of receipt of a written requisition,-

- (a) signed by not less than twenty five percent of the members having right to vote; or
- (b) from the Registrar.

(2) Such requisition shall contain the reasons why the meeting is felt necessary and the proposed agenda and no subject other than the subjects included in the proposed agenda shall be discussed at the special general meeting.

(3) If the Board fails to hold a special general meeting on requisition under sub-section (1) or any of the Annual General Meeting under Section 32 within the period specified therein all directors shall cease to be directors on the date of expiry of the said specified period.

(4) Any meeting of the General Assembly other than the Special General Meeting may, with the consent of the majority of the members present, be adjourned from time to time to a later hour on the same day or to any other date as may be provided in this bye-laws, but no business other than that left over at the adjourned meeting shall be transacted at the next meeting.

A notice of such adjournment posted in the notice board of the Head office of the cooperative society on the day on which the meeting is adjourned shall be deemed sufficient notice of the next adjourned meeting.

35. Board- (1) There shall be a Board for the management of every cooperative society registered under this Act. The Directors shall be elected in accordance with the provisions of the bye-laws. The management of every cooperative society constituted in accordance with the provision of this Act and the bye-laws shall vest in the Board :

Provided that in the case of a cooperative society newly registered under this Act, the persons who have signed the application for the registration of the cooperative society may appoint a promoter Board, for a period not exceeding one year from the date of registration to direct the affairs of the cooperative society and it shall cease to function as soon as a regular board is constituted in accordance with the provisions of this Act and the bye-laws.

*[(2) The Board shall consist of fifteen number of Directors :

Provided that there shall be reservation of one seat of Director for the Scheduled Castes or the Scheduled Tribes and two seats for women in the Board of every Co-operative Society consisting of individuals as members and having members from such class or category of persons.]

*[(3) The promoter Board appointed under the proviso to sub-section (1) shall conduct the election of Directors within the period mentioned therein.

*[(4) Every Director while exercising the powers and discharging duties shall act honestly and in good faith and in the best interests of the cooperative society and exercise such care, diligence and skill as a reasonably prudent person would exercise in similar circumstances.

* (5) A Director who is guilty of misappropriation, breach of trust or dishonesty resulting in loss or shortfall in revenue of the cooperative society and is found guilty after an enquiry or

*. Inserted new sub-section "(2)" and existing sub-sections renumbered as (3), (4) and (5) respectively, by Assam Act No. IV of 2013, published in the Assam Gazette Extraordinary No. 144, dated 5th February, 2013.

40. Eligibility for a Director in cooperative society- Subject to such other conditions as may be specified in the bye-laws a member of a cooperative society shall be eligible for being chosen as a Director of the cooperative society, if-

- (1) such member has the right to vote in the affairs of the cooperative society;
- (2) such member has patronised the services of the cooperative society during the previous financial year to the extent and in the manner specified in the bye-laws and has attended at least two Annual General Meetings in the previous five years;
- (3) such member has no pecuniary interest in any subsisting contract made with, or work being done for the cooperative society except as otherwise specified in the bye-laws;
- (4) the period of ¹[five] years has elapsed from the date such member ceased to be a Director for the following reasons:-
 - (a) not conducting or wrongly conducting the Annual General Meeting under Section 39 or Special General Meeting under sub-section (3) of Section 33 and Board meetings under sub-section (3) of Section 43;
 - (b) non submission of annual report of activities, annual financial statement of accounts to the general body under sub-section (4) of Section 30;
 - (c) not conducting the meeting of the Board under sub-section of Section 43 of delegates or representative under sub-section (3) of Section 41;
 - (d) absence from Board meetings under sub-section (7) of Section 43;
 - (e) automatic dissolution under sub-section (3) of Section 41;
 - (f) for failure to take follow up action on audit report as specified in Section 85.
- (5) such member is free from default of any payment due to the society.

84. Audit report- The Audit Officer shall within a fortnight from the date of completion of audit, submit to the registered society and to the Registrar, together with the statement of accounts audited, audit report including a statement of-

- (a) every transaction which appears to him to be contrary to law or to the rules or bye-laws;
- (b) every sum which ought to have been brought but has not been brought into account;

- (c) the amount of deficiency or loss which appears to have resulted from any negligence or misconduct that requires further investigation;
- (d) any money or property belonging to the society which appears to have been misappropriated or fraudulently retained by any person;
- (e) any of the assets which appears to him to be bad or doubtful;
- (f) any irregularity in maintaining the account;*
- (g) any other relevant matter under Section 83*; and
- *[(h) The audit report of the accounts of a co-operative society shall be laid before the Assam Legislative Assembly by the Registrar in any one of the sessions immediately after expiry of 120 days from the closure of the Co-operative year.]

100. Final accounts- (1) A liquidator shall pay the costs of liquidation out of the property of the cooperative society and shall pay or make adequate provision for all claims against the cooperative society.

(2) Subject to the provisions of Section 60 after paying or making adequate provision for all claims against the cooperative society, the liquidator shall apply to the Registrar for approval of his final accounts and for permission to distribute in cash or in kind the remaining property of the cooperative society in accordance with the bye-laws.

(3) Where the Registrar approves the final accounts rendered by a liquidator under sub-section (2), he shall-

- (a) issue direction with respect to the custody or disposal of the documents and records of the cooperative society; and
- (b) discharge the liquidator.

(4) Where the Registrar discharges a liquidator under sub-section (3) the Registrar shall dissolve the cooperative society, issue a certificate of dissolution and delete its name from the Register of Co-operative Societies.

(5) The cooperative society ceases to exist on the date shown in the certificate of dissolution, which shall not be later than eight years after the appointment of the liquidator.

M. K. DEKA,
Principal Secretary,
Assam Legislative Assembly.