



**COMMITTEE ON AGRICULTURE  
(2012-2013)**

**FIFTEENTH LOK SABHA**

**MINISTRY OF AGRICULTURE  
(DEPARTMENT OF AGRICULTURE & CO-OPERATION)**

**THE MULTI - STATE CO-OPERATIVE SOCIETIES  
(AMENDMENT) BILL, 2010**

**FORTY FIRST REPORT**



**LOK SABHA SECRETARIAT**

***NEW DELHI***

December, 2012/ Agrahayana, 1934 (Saka)

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(20012-2013)**

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(DEPARTMENT OF AGRICULTURE & COOPERATION)**

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(AMENDMENT) BILL, 2010**

Presented to Lok Sabha on	20.12.2012
Laid on the table of Rajya Sabha on	20.12.2012



**LOK SABHA SECRETARIAT**

***NEW DELHI***

December, 2012/ Agrahayana, 1934 (Saka)

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**COMPOSITION OF THE COMMITTEE ON AGRICULTURE (2010-11)****Shri Basudeb Acharia - Chairman****MEMBERS****LOK SABHA**

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27. Shri Mohd. Ali Khan
28. Shri Upendra Kushwaha
29. Shri Bharatsinh Prabhatsinh Parmar
30. Shri Rajpal Singh Saini
31. Shri S. Thangavelu

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*\*Nominated to the Committee on 04.05.2012*

**COMPOSITION OF THE COMMITTEE ON AGRICULTURE (2012-13)****Shri Basudeb Acharia - Chairman****MEMBERS****LOK SABHA**

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12. Sardar Sukhdev Singh Libra
13. Dr. Jyoti Mirdha
14. Shri Naranbhai Kachhadia
15. Shri Devji M. Patel
16. Smt. Bhavana Gawali (Patil)
17. Shri Jagdish Singh Rana
18. Shri Rajaiah Siricilla
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27. Shri Parshottam Khodabhai Rupala
28. Shri Rajpal Singh Saini
29. Shri Shivanand Tiwari
30. Shri S. Thangavelu
31. Shri Darshan Singh Yadav

## INTRODUCTION

I, the Chairman, Committee on Agriculture having been authorized by the Committee to present the report on their behalf, present this Forty-first Report (Fifteenth Lok Sabha) on 'The Multi-State Cooperative Societies (Amendment) Bill 2010'.

2. The Multi-State Cooperative Societies (Amendment) Bill, 2010 was introduced in Lok Sabha on 15 November, 2010. The Speaker under Rule 331E (1) (b) of the Rules of Procedure and Conduct of Business in Lok Sabha referred the Bill to the Committee on 16 December, 2010 for examination and Report.

3. The Committee were briefed by the representatives of the Ministry of Agriculture (Department of Agriculture and Co-operation) on the Bill on 04 January, 2011. During the course of this meeting the Committee observed several commonalities and contradictions between some of the proposed clauses of the Bill under examination and 'The Constitution (One Hundredth and Eleventh Amendment) Bill, 2009' on which the Committee had already presented their Twelfth Report to Parliament on 30 August 2010. The Committee, therefore, felt that unless and until the final shape of The Constitution (One Hundredth and Eleventh Amendment) Bill, 2009 was known, a thorough and in-depth examination of MSCS (Amendment) Bill, 2010 would not be possible. Accordingly, the Committee decided to defer the examination of the MSCS (Amendment) Bill, 2010 till the enactment of 'The Constitution (One Hundredth and Eleventh Amendment) Bill, 2009'. The Committee further decided that the Chairman may bring the constraints being faced by them in examination of the Bill to the notice of Speaker, Lok Sabha in an appropriate manner. The matter was accordingly placed before Speaker, Lok Sabha by the Chairman. Speaker, Lok Sabha concurred with the decision of the Committee to defer the examination of MSCS (Amendment) Bill, 2010 till the enactment of the Constitutional (Amendment) Bill, 2009 on 9 February, 2011. The Ministry of Agriculture (Department of Agriculture & Co-operation) were, thereafter informed about the decision of the Committee and they also decided to invite suggestions/views of various stakeholders on the Bill through an advertisement in the media.

4. The Department through a communication dated 23 January, 2012 informed the Committee Secretariat that The Constitution (Ninety-seventh Amendment) Act, 2012 after receiving the assent of the President of India on 12 January, 2012 had been published in the Gazette of India on 13 January, 2012. The Communication further requested that the Committee on Agriculture may (now) kindly consider taking up 'The MSCS (Amendment) Bill, 2010' and make their Recommendations at the earliest. The request of the Department was considered by the Committee at their Sitting held on 3 February, 2012. It was decided to resume examination of the Bill

5. A press release seeking the views/suggestions of the stakeholders on the Bill was issued in newspapers and audio-visual media on 18 February, 2012. In response to it, written suggestions/memoranda were received from 18 individuals/organizations. The Committee at their Sittings held on 05 November, 2012 took evidence of the representatives of National Bank for Agriculture and Rural Development (NABARD), Indian Farmers Fertilizer Cooperative Limited (IFFCO) and National Cooperative Union of India (NCUI)



6. The Committee also sought the views of State Governments of Haryana, Himachal Pradesh and Punjab on various provisions of the Bill during their Study Visit to these States from 15 to 20 June, 2012.

7. The Committee took oral evidence of the representatives of the Ministry of Agriculture and Cooperation (Department of Agriculture and Cooperation) on 16 November, 2012 and further oral evidence of the Ministry of Agriculture and Cooperation (Department of Agriculture and Cooperation) and Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) on 29 November and 06 December, 2012.

8. The Committee at their sitting held on 19 December, 2012 considered and adopted the Report.

9. The Committee also benefitted from the views/suggestions of Individuals/Experts/Organisations and expressed their thanks to all of them who furnished Memoranda and tendered evidence before the Committee as referred to in Para 5.

10. The Committee wish to express their thanks to the officers of the Ministry of Agriculture (Department of Agriculture and Co-operation) and Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) for placing before them the material and information in connection with examination of the Bill. They also express their thanks to the State Governments of Haryana, Himachal Pradesh and Punjab who gave their suggestions/views on various clauses of the Bill.

11. The Committee also place on record their appreciation for the invaluable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

**NEW DELHI;**  
**19 December, 2012**  
**28 Agrahayana, 1934 (Saka)**

**BASUDEB ACHARIA**  
***Chairman,***  
***Committee on Agriculture.***

## **REPORT**

“The Multi-State Co-operative Societies (Amendment) Bill, 2010” (Annexure-I) was introduced in the Lok Sabha on 15 November, 2010. The Bill was referred to the Committee on Agriculture by the Speaker, Lok Sabha on 16 December, 2010 for examination and Report within three months.

2. The Committee have been informed that the Multi-State Co-operative Societies Act, 2002 repealing the earlier law, that is, the Multi-State Co-operative Societies Act, 1984 was enacted with a view to consolidating the provisions relating to the multi-state co-operative societies registered with objects not confined to one State and serving the interests of members in more than one State; to facilitate the voluntary formation and democratic functioning of co-operatives as people’s institutions based on self-help and mutual aid; to enable them to promote their economic and social betterment; and to provide functional autonomy. The Multi-State Co-operative Societies Act, 2002 came in force with effect from the 19<sup>th</sup> August, 2002.

3. With the passage of time and developments in the co-operative movement in the country, certain difficulties have been experienced by the multi-state co-operative societies in the implementation of the Multi-State Co-operative Societies Act, 2002. A Conference of the State Co-operative Ministers was held on the 7 December, 2004 to, *inter alia*, ascertain the difficulties experienced by the multi-state co-operative societies. In pursuance of the resolution passed in the said Conference, a High Powered Committee on Co-operatives was constituted under the Chairmanship of Shri S. G. Patil.

4. The Department have informed the Committee that in view of the recommendation made in the report of aforesaid High Powered Committee and suggestions received from the co-operative sector and other stake holders and considering the importance of multi-state co-operative societies in the national economy and the experience gained during the last eight years of implementation of the Multi-State Co-operative Societies Act, 2002 it has been felt that the said Act should be amended to keep the legislation in tune with the changing economic policies and to facilitate the multi-state co-operative societies to take advantage of the new and emerging opportunities and to keep pace with other economic entities and facilitate raising of resources by the multi-state co-operative societies more efficiently and effectively by making appropriate provisions for promoting their functional autonomy.

5. The Department have further stated that the Bill proposes to amend the Multi-State Co-operative Societies Act, 2002, *inter-alia*, to –

(a) make the management of these co-operative societies more responsible to the members and accountable by making provision for (i) constitution of Interim Board, (ii) accounting standards, (iii) constitution of Interim (iv) calling for information or explanation by the Central Registrar of the Multi-State Co-operative Societies, (v) Special Audit;

(b) strengthen the provision relating to election of the members of the board of multi-state co-operative societies;

(c) make provisions for broad based representation in the board of the multi-state co-operative societies by providing reservation for the Scheduled Castes, the Scheduled Tribes and women;

(d) take certain measures which would facilitate the building of self-reliant, democratic and professionally efficient co-operative institutions;

(e) bringing transparency in the functioning of the multi-state co-operative societies by making provision for appointment of Co-operative Information Officer, Chief Information Officer for providing information about the affairs and management of the multi-state co-operative societies and also make provision for appeal.

6. During the course of briefing by the representatives of the Ministry of Agriculture (Department of Agriculture and Cooperation) on 4 January, 2011 on the various clauses of the Bill, the Committee observed several commonalities and contradictions between some of the proposed clauses of the Bill under examination and 'The Constitution (One Hundredth and Eleventh Amendment) Bill, 2009' on which the Committee had already presented their Twelfth Report to Parliament on 30 August 2010. The Committee, therefore, felt that unless and until the final shape of The Constitution (One Hundredth and Eleventh Amendment) Bill, 2009 was known, a thorough and in-depth examination of MSCS (Amendment) Bill, 2010 would not be possible. Accordingly, the Committee decided to defer the examination of the MSCS (Amendment) Bill, 2010 till the enactment of 'The Constitution (One Hundredth and Eleventh Amendment) Bill, 2009'. The Committee further decided that the Chairman may bring the constraints being faced by them in examination of the Bill to the notice

of Speaker, Lok Sabha in an appropriate manner. The matter was accordingly placed before Speaker, Lok Sabha by the Chairman. Speaker, Lok Sabha concurred with the decision of the Committee to defer the examination of MSCS (Amendment) Bill, 2010 till the enactment of the Constitutional (Amendment) Bill, 2009 on 9 February, 2011. The Ministry of Agriculture (Department of Agriculture & Co-operation) were, thereafter informed about the decision of the Committee. The Rajya Sabha and Lok Sabha were also informed about the fact of deferment through Parliamentary Bulletin Part-II Para 48291 and Lok Sabha Bulletin Part-II Para No. 2571, both dated 8 March, 2011, respectively.

7. In the meantime, the Minister of Agriculture and the Minister of Food Processing Industries addressed a DO letter dated 4 March, 2011 (Annexure-II) to Speaker, Lok Sabha on the subject matter. The Minister stated in his communication that the amendments proposed in MSCS (Amendment) bill, 2009 were based on the recommendations of High Powered Committee on Cooperatives and extensive consultation held with the stakeholders and public representatives as well as feedback received from various quarters. He further stated that the Bill is also in line with the proposed Constitutional Amendment Bill, which has already been examined by the Committee on Agriculture. Since the proposed amendments were intended to address certain crucial issues related to multi-state cooperative societies the Bill needed to be considered urgently, without linking it to enactment of 'The Constitution (Amendment) Bill, 2009. The Minister had, accordingly, requested Speaker, Lok Sabha to kindly reconsider and advise the Committee on Agriculture to take up the examination of MSCS (Amendment) Bill, 2010 and make their recommendations at the

earliest so that the Bill may be taken up for consideration and passing either during the current Session or in the ensuing Monsoon Session of the Parliament.

8. The said Communication of the Minister was referred to the Committee for their consideration. During their Sitting held on 24 March, 2011 after an in-depth discussion, the Committee felt that since some of provisions of 'The Constitution (Amendment) Bill, 2009, which was yet to be enacted, had a bearing on MSCS (Amendment) Bill, 2010, they would not be in a position to arrive at a well considered conclusion on the latter. The Committee, therefore, decided that as there was not material change in the interregnum between the their decision taken in January, 2011 to defer consideration of the Bill and now, the situation did not warrant any change in their previous decision to postpone examination and Report of the MSCS (Amendment) Bill, 2010. The decision of the Committee was concurred with by Speaker, Lok Sabha on 5 April, 2011. The Department were also apprised on the decision of the Committee on 13 April, 2011.

9. The Department through a communication dated 23 January, 2012 informed the Committee Secretariat that The Constitution (Ninety-seventh Amendment) Act, 2012 (Annexure-III) after receiving the assent of the President of India on 12 January, 2012 had been published in the Gazette of India on 13 January, 2012. The Communication further requested that the Committee on Agriculture may (now) kindly consider taking up 'The MSCS (Amendment) Bill, 2010' and make their Recommendations at the earliest. The request of the Department was considered by the Committee at their Sitting held on 3 February, 2012. It was decided to resume examination of the Bill and for that purpose

Speaker, Lok Sabha be requested to grant extension of time till the last day of Budget Session, 2012 for presentation of Report to the Parliament. Speaker, Lok Sabha acceded to the request of the Committee on 9 February, 2012.

10. A press-release seeking the views/suggestions of the stakeholders on the Bill was issued in newspapers and audio-visual media on 18 February, 2012. The particulars of memoranda received from various stakeholders are at Annexure-IV.

11. During the course of their examination of the Bill the Committee at their Sitting held on 17 May, 2012 decided to seek views of the State Government of Haryana, Himachal Pradesh and Punjab on various provisions of the Bill during their Study Visit scheduled to these States from 15 to 20 June, 2012. They also decided to request Speaker, Lok Sabha to grant extension of time till the last day of the Monsoon Session, 2012 for presentation of the Report on the Bill. Speaker, Lok Sabha acceded to the request of the Committee on 12 June, 2012.

12. The term of the Committee (2011-12) ended on 30 August, 2012, therefore, the examination of the Bill remained incomplete. Consequent upon the reconstitution of the Committee (2012-13), it was decided at their Sitting held on 17 October, 2012 that Speaker, Lok Sabha be requested to grant extension of time till the last day of Winter Session, 2012 for presentation of the Report on the Bill to Parliament. Speaker, Lok Sabha acceded to the request of the Committee on 7 December, 2012.

13. As has been stated previously in this Report, the Committee had observed contradictions in the provisions contained in MSCS (Amendment) Bill, 2010 and

the Constitution (Amendment) Bill, 2009 leading to deferment of examination of the former till the enactment of the latter. The Committee while analysing the various provisions of the MSCS (Amendment) Bill, 2009 observed that some of them were in contravention of The Constitution (Ninety-seventh Amendment) Act, 2012. The apprehensions of the Committee were further confirmed from the Memoranda submitted by the various stakeholders as also during the oral depositions of some of the stakeholders before the Committee.

14. During the course of the Sitting of the Committee on 5 November, 2012 when these concerns were voiced before the Secretary of the Department of Agriculture and Cooperation he replied:

“Sir, as you are aware, this Ministry was working on both the Constitutional Amendment and the MSCS Act at the same time. We were fully aware of what is contained in the provisions of the Constitutional Amendment. To the best of our ability we have tried to see that there is no contradiction either in the intent or in the actual purpose of the contents of both Legislations. I do not think there is any contradiction. As and when the MSCS Bill comes back to us, we will have to consult with the Ministry of Law to ensure that there are no contradictions or overlapping. What the Constitutional Amendment does is to provide a framework under which this Act is also one of its various instruments. This is under the overarching umbrella of the Constitution. I do not think there is any contradiction. As I said, we will have to refer this to the Ministry of Law when we get the recommendations of the Committee. As a lay person, as a non-legal man I think there is no contradiction.”

15. Probed further as to whether he was sure that if the Act would stand scrutiny of law, if challenged, the witness said:

“Yes.”



16. During the examination of the Bill the attention of the Committee was drawn in particular to the addition of the new Section, i.e. 41A, which *inter-alia* states that, “where a multi-state cooperative society is declared sick, under Sub-section (1), the Central Government may on the recommendations of Central Registrar, constitute an interim board for a maximum period of five years consisting of experts in the field of cooperation, management, finance, accounting and in other areas relating to such multi-state cooperative society for the purpose of preparing and implementing a Scheme for a rehabilitation or survival of such multi-state cooperative society”.

17. The Committee found this to be in direct contravention of Article 243ZL(1) of the ‘The Constitution (Ninety-Seventh Amendment) Act, 2011’ which stipulates that “notwithstanding anything contained in any law for the time being in force, no Board shall be superseded or kept under suspension for a period exceeding six months”.

18. About the justification for the proposed amendment he stated during the further Oral Evidence on 29 November, 2012:

“The provisions that we have made in the present legislation that has come up for consideration is, precisely to enable sound and professional management to be put in place for revival of sick cooperatives. We had proposed this arrangement of an interim board because no working institution can be revived in a matter of six months, it is not possible. So, the experience that we have gained during the working of the BIFR for the industry sector is ample testimony to that. That is why we, in our legislation, proposed keeping the existing Board dormant and put an interim board of qualified professionals to revive the cooperatives in its place.

Now, of course, that matter is being examined by the Ministry of Law. As of now, we have no other mechanism for revival of sick cooperatives.”

19. During their oral deposition before the Committee on 5 November, 2012 the representatives of Indian Farmers Fertilizers Cooperative Limited (IFFCO) and National Cooperatives Union of India (NCUI) were in agreement with the misgivings of the Committee.

20. When a clarification was sought on this specific aspect, the Department of Agriculture and Cooperation in their written submission stated that they are of the view that the proposed amendment, i.e. Section 41A is not in contravention to Article 243ZL of ‘The Constitution (Ninety-Seventh Amendment) Act, 2011’. However, the Department would again consult Law Ministry on this specific issue. The insertion of a new section 41A has been proposed in the Multi-State Co-operative Societies (Amendment) Bill, 2010 with the objective to have enabling provision for undertaking measures for rehabilitation & revival of sick co-operative societies. Institution of professionally competent Board of Management and giving them adequate operational freedom is essential prerequisite for implementing measures identified for revival of sick co-operative societies. This becomes even more important if the sick cooperative is provided assistance under CRRF or Government. Many a times, the elected board lacks the required expertise to revive the sick cooperative societies and is itself responsible for causing sickness. As per the provision of section 41A (3) the Board of Directors of sick multi-State co-operative society, after constitution of interim board, shall not function and discharge its function as such. However, sub-section 41(a) (4) clearly provides as follows:

“The Central Registrar, if at any time during which the interim board has been constituted, is of the opinion that the society has become viable, it may dissolve such interim board and thereafter the board of directors existing before constitution of interim board shall function as per provisions of this Act.”

The purpose of this section is to create a mechanism for revival of sick societies by putting in place a rehabilitation plan and professionally competent interim board for its efficient implementation. The elected board is not proposed to be suspended. It will only be kept in a dormant state and will not discharge its function till the interim board is in place. It is proposed that the interim board will be dissolved and the management will be handed over to the elected board as soon as the society becomes viable.

Section 41A does not propose to suspend the elected board of a co-operative society. It only proposes to keep the elected board in a dormant state till the interim board is in place. The interim board will be dissolved and the management handed over to the elected board as and when the society becomes viable.

21. During the course of the Oral Evidence on 16 November, 2012, the Secretary, on being asked to clarify further on this aspect stated:

“Please allow me to clarify. This draft legislation was cleared and vetted by the Ministry of Law. So, on the face of it, we should have no problem in saying that it is in conformity with the Constitution. Having said that, my personal opinion is that I am a bit uncomfortable with idea that the Board of a Cooperative can be replaced by an interim Board without being suspended or superseded but by saying that it is kept in a dormant state.

The logic that has been taken by this Ministry is that the board of these cooperatives will be kept dormant-it will not be suspended and it will not be kept in abeyance. It will be kept dormant till such time this interim

board is in a position to rehabilitate the cooperative and put it back in working order.

I am slightly uncomfortable and I am not sure about it but it has been cleared by the Ministry of Law. But, since this issue has been raised in the last meeting, I feel that we need to again get this re-examined by the Ministry of law mainly to reassure ourselves”.

22. On being apprised of the Committee’s scepticism regarding the proposed new Section 41A being able to stand legal scrutiny, the Secretary further stated:

“I share your scepticism. I am not disputing what you are saying. I am equally uncomfortable with this part. Since this has been cleared by the Ministry of Law and it has said that it is inconformity with all practices of jurisprudence, I think we will go back to them”.

23. Queried further as to how the Government perceived such an incredulous situation where inspite of the existence of an elected board, which is neither suspended nor superseded, there would be another board to replace it, which would function on behalf of the former and the former would also co-exist, the witness admitted:

“I am not disputing what you are saying. What I am saying is that the Ministry of Law has cleared this; I am still uncomfortable as the hon. Committee seems to be. I will go back to the Ministry of Law and discuss it in greater detail.”

24. Asked further if the Ministry of Law and Justice had been consulted in the matter, the witness stated further:

“If you recall, it was on the 5<sup>th</sup> of this month when we discussed this. I would request you to give us some time because it was just on the 5<sup>th</sup>. After that we have been trying to complete the questionnaire sent to us by you. So, we will go back to the Ministry of Law. Ministry of Law may not always be correct. There have been instances where there were legislations which have been struck down by the Court.”

25. During the course of further Oral Evidence on 29 November, 2012 when the Committee desired to know about the outcome of the Department's efforts towards identifying provisions in the Bill that were in contravention of Constitution (Amendment) Bill, 2012 Secretary of the Department of Agriculture and Cooperation stated:

“I would submit that as was discussed during the last meeting, we had referred the issue of any possible contravention in the provisions of the Draft MSCS (Amendment) Bill and the provisions of the Constitution (Amendment) Bill with specific reference to the issue that was discussed last time whether an existing Board can be kept in a dormant state for more than six months, replaced by an Interim Board and be revived after six months if the Constitutional provision is that for six months a Board cannot be kept inactive or suspended or kept in abeyance. We had referred to the Ministry of law this issue. In addition to that, I would think that probably this is an opportune time for the entire Bill to be once again looked at by the Ministry of Law. But that will obviously take a slightly longer spell. After last meeting, we had specifically requested the Ministry of Law to look at this particular aspect which has agitated the Members during the last meeting. A lot of concern and apprehensions were expressed then. Maybe, my colleagues from the Ministry of Law would be in a better position to answer what is their assessment regarding the validity of the MSCS provisions *vis-à-vis* the Constitutional Amendment.”

26. The representative of the Ministry of Law (Department of Legal Affairs) when asked to tender his considered view on the matter stated during the further Oral Evidence:

“Sir, I would submit that this aspect was not possibly examined because when this Bill was considered in the Department of Legal Affairs and the Legislative Department, it was some time in February, 2010. Then, the Constitution Amendment 243 (z) was assented to by the hon. President of India on 12<sup>th</sup> January. This came to be enforced from February, 2012. So, there has been no occasion earlier to examine this conflict aspect with this provision. But, on this reference as directed by the august Committee, there had been an occasion to look at this. *Prima facie*, a view may be taken that there are certain reasons specifically mentioned under Article 243 (z) for what reasons a Multi-State Cooperative Society can be superseded or suspended. This provision, in fact, is about revival and rehabilitation of a sick society which is running into losses. So, this is a grey area and this requires a specific, formal examination because the view which the Committee is taking is quite reasonable. So, a formal examination may be necessary because there may be overlapping of the reasons for declaring the society to be sick. So, if the reasons are those which are mentioned in the Constitutional provision, then, it is to be said that it is in conflict”.

27. The Committee acceded to the request of the witness and the Government was granted time till 5 December, 2012 to furnish information on this matter.

28. The Ministry of Law and Justice (Department of Legal Affairs) in their written submission furnished to the Committee (Annexure-V) on the issue of whether insertion of proposed new Section 41A being in contravention of Article

243ZL of 'The Constitution (Ninety-Seventh Amendment) Act, 2011', submitted that in their considered view, there may be cases where a society may become sick and declared as such for one or more of the reasons stated in Article 243ZL and an interim board may be constituted. In such cases, it would be reasonable to view such action as an indirect method of superseding or suspending the board though using a different nomenclature of making it non-functional, which is not permissible under the provisions in the said Article. Moreover, it may also be said that through this Section 41A, an attempt is also made to widen the scope of power to supersede or suspend the elected board (in the name of declaring a society as sick), as the same would apply to all the coo-operative Societies whether there is any Government shareholding or not. Hence, the provisions in Section 41A as discussed above may be reasonably viewed as being in contravention with the intent of Article 243ZL.

29. It was further submitted that if the proposed Section 41A contains suitable provisions for declaring a particular society as sick on account of the reasons other than mentioned in Article 243ZL, the same would not be considered against the intent and spirit of this constitutional provision.

30. On being queried by the Committee if other provisions of the Amendment Bill were in contravention of 'The Constitution (Ninety-Seventh Amendment) Act, 2011', the representative of Department of Legal Affairs during the course of Further Oral Evidence stated:

"Sir, the present issue has been examined with reference to Clause 17 only where specific submissions were made by me last time. Clause by Clause, the Bill has not been examined because as our practise is that

unless we are told by the administrative Department or by one sister Department that this particular clause may be looked at from the legal and constitution angle, we see only from the policy side; and then the Bill is prepared by the Legislative Department in consultation with the administrative Department. That is the reason why this has not been examined.”

31. In response to a specific query as to whether the Department wanted to examine The Multi-State Co-operative Societies (Amendment) Bill, 2010 clause by clause again to remove the contradictions between the Bill under consideration and ‘The Constitution (Ninety-Seventh Amendment) Act, 2011’, the witness replied:

“My humble submission is that each and every provision in the Bill may be re-looked by the administrative Department sitting with the Legislative Department, who have drafted the Bill; and if they make a formal reference to us, this will actively be examined on priority and this Committee properly assisted”.

**32. The Committee are extremely disappointed with the perfunctory and unprofessional manner in which the instant piece of legislation, touted to keep the MSCS Act in tune with the changing economic policies and to facilitate the multi-state co-operative societies to take advantage of the new and emerging opportunities and to keep pace with other economic entities and facilitate raising of resources by the multi-state co-operative societies more efficiently and effectively by making appropriate provisions for promoting their functional autonomy from top to bottom in the Ministry of Agriculture (Department of Agriculture and Cooperation) has been dealt with.**



33. The Committee at the very first glance on the Bill had the foreboding of it not passing the muster and for justifiable reasons. Two Bills viz. 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009 and 'Multi-State Co-operative Societies (Amendment) Bill, 2010', both germane to the Cooperative Sector in the Country, were proposed by Department of Agriculture and Cooperation in an overlapping time frame. Both these Bills were referred to the Committee for examination and Report on 24 December, 2009 and 16 December, 2010, respectively. The Committee presented their Twelfth Report on 'The Constitution (One Hundred and Eleventh Amendment) Bill', 2009 on 30 August, 2010. Before this Bill was enacted the Government introduced 'The Multi-State Co-operative Societies (Amendment) Bill, 2010'. The Committee, in their very first Sitting to consider this Bill were convinced that some of its provisions contradicted/contravened the provisions contained in the Constitutional Amendment Bill. They, therefore, felt that until the Constitutional Amendment Bill was enacted it would not be worthwhile to continue examination of 'The Multi-State Co-operative Societies (Amendment) Bill, 2010' as there was a serious risk of contradictions between the two enactments. The Committee in their wisdom, therefore, deferred the examination of 'The Multi-State Co-operative Societies (Amendment) Bill, 2010' till 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009 was enacted and its exact provisions were known and understood.

34. The Department was accordingly asked to do the needful so that the Committee could resume the examination of the Bill at the earliest. Instead

of heeding to the advice of the Committee, the Minister of Agriculture and Food Processing Industries chose to seek the intervention of Speaker, Lok Sabha on 4 March, 2011 in advising the Committee to present their Report on the Bill to the Parliament without linking it with the enactment of Constitutional Bill as 'The Multi-State Co-operative Societies (Amendment) Bill, 2010' was purportedly in line with the former which has already been examined by the Committee'. The Committee considered the entire matter in the light of the Communication of the Minister to the Speaker, Lok Sabha during their Sitting held on 24 March, 2011. However, since the contradictions between the certain clauses of the two Bills were so glaring that they concluded that without the enactment of 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009' they could not proceed further with the examination and Report on 'The Multi-State Co-operative Societies (Amendment) Bill, 2010'.

35. The Committee resumed the examination of 'The Multi-State Cooperative Societies (Amendment) Bill, 2010' once the Department informed them on 23 January, 2012 that 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009 had been enacted as 'The Constitution (Ninety-seventh Amendment) Act, 2012' after receiving assent of the President of India on 12 January, 2012.

36. Based on their in-depth examination as also the inputs received from various stakeholders in writing as also when some of them tendered Oral Evidence before the Committee on the Bill, the Committee observed that some of the provisions of 'The Multi-State Co-operative Societies

(Amendment) Bill, 2010' were seemingly in contravention of 'The Constitution (Ninety-seventh Amendment) Act, 2012'. Time and again, Department of Agriculture and Cooperation was confronted by the Committee with their reservations and apprehensions over these clauses of the proposed Bill. Regrettably, however, the Department at the initial stages tried to brazen out in the matter by saying that the proposed Bill was totally in conformity with 'The Constitution (Ninety-seventh Amendment) Act, 2012'. It was only when the Committee pointed out as an illustration, the inherent contradictions between the Clause 41A of the proposed Bill and Article 243ZL of the Constitution that the Department very belatedly realised their mistake. It is inexplicable as to how the incredulous situation of an elected board co-existing in a '*dormant state*' with another board of professionals imposed by Government was missed out by the Government. The Committee's apprehensions about the Department having come up with a piece of legislation which was flawed since inception were proved prophetic by the evidence tendered by the Ministry of Law and Justice in the matter who in fact have opined that each and every provision in the Bill may be relooked by the Administrative Department sitting with the Legislation Department.

37. The Committee unequivocally deprecate the matter in which the Government had planned to bring about changes in the fortunes of the Cooperative Sector through such a *laissez faire* approach. Ideally, the Department should have in the light of the decision of the Committee to defer the examination of 'The Multi-State Co-operative Societies

(Amendment) Bill, 2010' due to the inherent contradictions between the two Bills, withdrawn 'The Multi-State Co-operative Societies (Amendment) Bill, 2010' and after enactment of 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009' should have introduced a fresh Bill ensuring that none of its provisions contravened the Constitution. The Government however continued to proceed with its flawed view about everything being spic and span in the proposed Bill.

38. Since the Government have not withdrawn the Bill, the Committee hereby return the MSCS (Amendment) Bill, 2010 to the Department of Agriculture and Cooperation with the recommendation that each and every clause of the Bill may be analysed and evaluated in consultation with the Ministry of Law and Justice so that not even a word in the Bill contravenes the Constitution. A fresh Bill taking into consideration the concerns and interests of all the stakeholders, the interactions of the Department with the Committee, for and in connection with 'The Multi-State Co-operative Societies (Amendment) Bill, 2010 not excluded, may thereafter be introduced in the Parliament.

NEW DELHI;  
19 December, 2010  
28 Agrahayana, 1934 (Saka)

BASUDEB ACHARIA  
*Chairman,*  
*Committee on Agriculture.*

**COMMITTEE ON AGRICULTURE  
(2010-11)**

**MINUTES OF THE FOURTEENTH SITTING OF THE COMMITTEE**

The Committee sat on Tuesday, the 4<sup>th</sup> January, 2011 from 1510 hours to 1640 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

**PRESENT**

Shri Basudeb Acharia        -     Chairman

**MEMBERS**

**Lok Sabha**

2. Shri Narayansingh Amlabe
3. Shri Thangso Baite
4. Smt Ashwamedh Devi
5. Shri Anant Kumar Hegde
6. Shri Prabodh Panda
7. Shri Premdas
8. Shri Vitthalbhai Hansrajbhai Radadiya
9. Shri Nripendra Nath Roy
10. Shri Hukmadeo Narayan Yadav

**Rajya Sabha**

11. Shri Shashi Bhusan Behera
12. Shri Satyavrat Chaturvedi
13. Shri A. Elavarasan
14. Shri Vinay Katiyar
15. Shri Mohd. Ali Khan
16. Shri Upendra Kushwaha

17. Shri Rajpal Singh Saini  
18. Shri S. Thangavelu

### **SECRETARIAT**

- Shri P. V. L. N. Murthy - Director  
Shri P.C. Koul - Additional Director

### **REPRESENTATIVES OF MINISTRY OF AGRICULTURE** **(DEPARTMENT OF AGRICULTURE AND CO-OPERATION)**

1. Shri P. K. Basu Secretary  
2. Shri G. C. Pati Additional Secretary  
3. Shri D. N. Thakur Director

2. The Sitting commenced with the Chairman wishing the Members a very happy New Year and welcoming them and the representatives of the Ministry of Agriculture (Department of Agriculture and Cooperation). After introducing themselves, the witnesses briefed the Committee on the 'The Multi-State Co-operative Societies (Amendment) Bill, 2010'.

3. The Members raised several queries pertaining to the Bill including ramifications of some of the proposed clauses on the recommendations made by the Committee in their Twelfth Report on the Constitution (One Hundred and Eleventh Amendment) Bill, 2009 and the witness responded to them.

4. Before the Sitting concluded, the Chairman thanked the witnesses for appearing before the Committee. He also directed them to send information on points on which information could not be provided by them during the Sitting to the Secretariat of the Committee latest by 11 January, 2011.

(The witnesses then withdrew)

5. Thereafter, the Committee held an internal meeting on the matter. After deliberating for a while, the Committee were of the unanimous view that due to commonality on several vital issues an indepth examination of the Bill in question could not be undertaken till “The Constitution (One Hundred and Eleventh Amendment) Bill, 2009”, on which the Committee on Agriculture (2009-10) had presented their Twelfth Report to both Houses of Parliament on 30<sup>th</sup> August, 2010, was enacted. They also felt that in the absence of information about

the action taken by the Government on recommendations contained in their 12<sup>th</sup> Report, a thorough examination of the present Bill would be pre-emptive. They, therefore, decided to defer the examination of the present Bill, till such time the Constitution (One Hundred and Eleventh Amendment) Bill, 2009 was enacted. They also authorized the Chairman

to apprise the Hon'ble Speaker about the constraints being faced by the Committee in the matter in an appropriate manner.

A verbatim record of the proceeding has been kept separately.

**The Committee then adjourned.**

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**COMMITTEE ON AGRICULTURE  
(2010-11)**

**MINUTES OF THE TWENTY-SECOND SITTING OF THE COMMITTEE**

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The Committee sat on Thursday, the 24th March, 2011 from 1500 hours to 1535 hours in Committee Room 'D', Parliament House Annexe, New Delhi.

**PRESENT**

Shri Basudeb Acharia – Chairman

**MEMBERS**

**Lok Sabha**

2. Shri Narayansingh Amlabe
3. Shri K.C. Singh 'Baba'
4. Shri Thangso Baite
5. Smt. Shruti Choudhary
6. Shri Naranbhai Kachhadia
7. Shri Prabodh Panda
8. Shri Premdas
9. Shri Jagdish Thakor
10. Shri Hukmadeo Narayan Yadav

**Rajya Sabha**

11. Shri Shashi Bhusan Behera
12. Shri Mohd. Ali Khan
13. Shri Upendra Kushwaha
14. Shri Rajpal Singh Saini

**Secretariat**

1. Shri Raj Shekhar Sharma - Joint Secretary
2. Shri P.V.L.N. Murthy - Director
3. Shri P.C. Koul - Additional Director



**COMMITTEE ON AGRICULTURE  
(2011-12)**

**MINUTES OF THE TWENTY SECOND SITTING OF THE COMMITTEE**

The Committee sat on Friday, the 03 February, 2012 from 1500 hours to 1750 hours in Room No. '53', Parliament House, New Delhi.

**PRESENT**

Shri Basudeb Acharia – Chairman

**MEMBERS**

**LOK SABHA**

2. Shri Narayansingh Amlabe
3. Shri Thangso Baite
4. Smt. Ashwamedh Devi
5. Shri Naranbhai Kachhadia
6. Shri Devji M. Patel
7. Shri Nripendra Nath Roy
8. Shri Hukmadeo Narayan Yadav

**RAJYA SABHA**

9. Shri Shashi Bhusan Behera
10. Shri Narendra Budania
11. Shri Satyavrat Chaturvedi
12. Shri Mohd. Ali Khan
13. Shri Upendra Kushwaha
14. Shri Bharatsinh Prabhatsinh Parmar
15. Shri Rajpal Singh Saini

**SECRETARIAT**

- |    |                         |   |                     |
|----|-------------------------|---|---------------------|
| 1. | Shri Deepak Mahna       | - | Joint Secretary     |
| 2. | Shri P. V. L. N. Murthy | - | Director            |
| 3. | Shri P.C. Koul          | - | Additional Director |
| 4. | Shri C. Vanlalruata     | - | Deputy Secretary    |

2. At the outset, the Chairman welcomed the members to the Sitting of the Committee. Thereafter, the Committee took up Memorandum No. 3 pertaining to 'The Multi-State Co-operative Societies (Amendment) Bill, 2010 for consideration. The Chairman explained to the Committee the chronology of events right from the date of reference of the Bill by the Speaker, Lok Sabha on 20 December, 2010 to the Committee for examination and Report as well as the reasons guiding the Committee to pend further action on the Bill till enactment of 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009'.

3. He further informed that 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009', was passed by the Lok Sabha on 22 December, 2012, as 'The Constitution (Ninety Seventh Amendment) Act, 2011' which had received the assent of the President on 12 January, 2012. In view of this development the Ministry of Agriculture (Department of Agriculture and Cooperation) have requested the Committee to kindly consider resuming of the examination of 'The Multi-State Co-operative Societies (Amendment) Bill, 2010'.

4. After some deliberations the Committee decided to accede to the request of the Department. They also decided that for presentation of Report on the Bill extension of time till the last day of the Budget session 2012 may be sought from Hon'ble Speaker. It was further decided that public opinion on various provisions of the Bill from various stakeholders may be sought and a Press Communication for the purpose may be issued.

*5.	xxxxx	xxxxx	xxxxx	xxxxx
*6.	xxxxx	xxxxx	xxxxx	xxxxx
*7.	xxxxx	xxxxx	xxxxx	xxxxx
*8.	xxxxx	xxxxx	xxxxx	xxxxx

**The Committee then adjourned.**

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**\* Matter not related to this Report.**

**COMMITTEE ON AGRICULTURE  
(2012-13)**

**MINUTES OF THE SECOND SITTING OF THE COMMITTEE**

The Committee sat on Wednesday, the 17<sup>th</sup> October, 2012, from 1500 hours to 1715 hours in Committee Room 'D', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Basudeb Acharia - Chairman**

**MEMBERS**

**LOK SABHA**

2. Shri Narayansingh Amlabe
3. Shri Sanjay Singh Chauhan
4. Shri H.D. Devegowda
5. Smt. Ashwamedh Devi
6. Shri Premdas Katheria
7. Shri P. Kumar
8. Sardar Sukhdev Singh Libra
9. Dr. Jyoti Mirdha
10. Shri Naranbhai Kachhadia
11. Shri Jagdish Singh Rana
12. Shri Rajaiah Siricilla
13. Dr. Vinay Kumar Pandey 'Vinnu'

**RAJYA SABHA**

14. Shri Satyavrat Chaturvedi
15. Dr. K.V.P. Ramachandra Rao
16. Shri Rajpal Singh Saini
17. Shri Shivanand Tiwari
18. Shri S. Thangavelu

**SECRETARIAT**

- |    |                     |   |                     |
|----|---------------------|---|---------------------|
| 1. | Shri P.C. Koul      | - | Additional Director |
| 2. | Shri C. Vanlalruata | - | Deputy Secretary    |

\*2.   xxxxx                                   xxxxx                                   xxxxx                                   xxxxx

3.     The Committee, thereafter, took up Memoranda No. 3 pertaining to 'The Multi-State Co-operative Societies (Amendment) Bill, 2010' for consideration. The Chairman explained to the Committee about the reference of the Bill by the Speaker, Lok Sabha, to the Committee for examination and Report. He also recounted the reasons necessitating the postponement of examination of the Bill. The Committee then authorized the Chairman to request the Speaker, Lok Sabha, for grant of extension of time for examination and Report on the Bill till the last day of the Winter Session, 2012.

\*4.   xxxxx                                   xxxxx                                   xxxxx                                   xxxxx

\*5.   xxxxx                                   xxxxx                                   xxxxx                                   xxxxx

**The Committee then adjourned.**

**COMMITTEE ON AGRICULTURE  
(2012-13)**

**MINUTES OF THE THIRD SITTING OF THE COMMITTEE**

The Committee sat on Friday, the 26<sup>th</sup> October, 2012, from 1100 hours to 1130 hours in Room No. '53' Parliament House, New Delhi.

**PRESENT**

**Shri Basudeb Acharia - Chairman**

**MEMBERS**

**LOK SABHA**

2. Shri Narayansingh Amlabe
3. Shri Sanjay Singh Chauhan
4. Shri H.D. Devegowda
5. Smt. Ashwamedh Devi
6. Smt. Paramjit Kaur Gulshan
7. Shri Premdas Katheria
8. Sardar Sukhdev Singh Libra
9. Shri Naranbhai Kachhadia
10. Shri Rajaiah Siricilla
11. Dr. Vinay Kumar Pandey 'Vinnu'
12. Shri Hukamdeo Narayan Yadav

**RAJYA SABHA**

13. Shri Satyavrat Chaturvedi
14. Smt. Mohsina Kidwai
15. Shri Dharmendra Pradhan
16. Dr. K.V.P. Ramachandra Rao
17. Shri Rajpal Singh Saini
18. Shri Shivanand Tiwari
19. Shri S. Thangavelu
20. Shri Darshan Singh Yadav

**SECRETARIAT**

- |    |                     |   |                     |
|----|---------------------|---|---------------------|
| 1. | Shri R.S. Kambo     | - | Joint Secretary     |
| 2. | Shri P.C. Koul      | - | Additional Director |
| 3. | Shri C. Vanlalruata | - | Deputy Secretary    |

2. All the outset, Hon'ble Chairman welcomed the members to the Sitting of the Committee. He then informed them about the sudden indisposition of the Secretary, Department of Animal Husbandry, Dairying and Fisheries and the consequent change in the agenda of the Sitting from a briefing on the Subject "Development of Fisheries – A Review" to examination of 'The Multi-State Cooperative Societies (Amendment) Bill, 2010'.

3. The Committee then deliberated upon the memorandum received from various stakeholders on the Subject under consideration. After some deliberations it was felt that the views of some of the stakeholders be heard in person so as to have a holistic view of the subject. It was decided to hold a sitting on 5 November, 2012 for the purpose.

**The Committee then adjourned.**



**COMMITTEE ON AGRICULTURE  
(2012-13)**

**MINUTES OF THE FOURTH SITTING OF THE COMMITTEE**

The Committee sat on Monday, the 5<sup>th</sup> November, 2012, from 1500 hours to 1755 hours in Committee Room 'C' Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Basudeb Acharia - Chairman**

**MEMBERS**

**LOK SABHA**

2. Shri Narayansingh Amlabe
3. Shri Sanjay Singh Chauhan
4. Smt. Ashwamedh Devi
5. Shri L. Raja Gopal
6. Shri Anant Kumar Hegde
7. Shri Premdas Katheria
8. Shri P. Kumar
9. Sardar Sukhdev Singh Libra
10. Dr. Jyoti Mirdha
11. Shri Naranbhai Kachhadia
12. Shri Devji M. Patel
13. Shri Jagdish Singh Rana
14. Dr. Vinay Kumar Pandey 'Vinnu'
15. Shri Hukamdeo Narayan Yadav

**RAJYA SABHA**

16. Shri Satyavrat Chaturvedi
17. Shri A. Elavarasan
18. Smt. Mohsina Kidwai
19. Shri Dharmendra Pradhan
20. Dr. K.V.P. Ramachandra Rao
21. Shri Rajpal Singh Saini
22. Shri S. Thangavelu

**SECRETARIAT**

- |    |                     |   |                     |
|----|---------------------|---|---------------------|
| 1. | Shri R.S. Kambo     | - | Joint Secretary     |
| 2. | Shri P.C. Koul      | - | Additional Director |
| 3. | Shri C. Vanlalruata | - | Deputy Secretary    |

- 2 -

**WITNESSES****MINISTRY OF AGRICULTURE  
(DEPARTMENT OF AGRICULTURE AND CO-OPERATION)**

<b><u>S.No.</u></b>	<b><u>NAME OF THE OFFICER</u></b>	<b><u>DESIGNATION</u></b>
1.	Shri Ashish Bahuguna	Secretary
2.	Shri A.K. Thakur	Additional Secretary
3.	Shri Rajender Kumar Tiwari	Joint Secretary

**NATIONAL BANK FOR AGRICULTURE AND RURAL DEVELOPMENT**

1.	Dr. Prakash Bakshi	Chairman
2.	Shri P.V.S. Suryakumar	Chief General Manager

**INDIAN FARMERS FERTILISER COOPERATIVE LIMITED**

1.	Dr. U.S. Awasthi	Managing Director
2.	Shri Rakesh Kapur	Joint Managing Director

**NATIONAL COOPERATIVE UNION OF INDIA**

1.	Dr. Chandra Pal Singh Yadav	President
2.	Dr. Dinesh	Chief Executive
3.	Dr. Bijender Singh	Chairman, NAFED

2. At the outset, the Chairman welcomed the Members to the Sitting of the Committee. Thereafter, the Chairman directed that the representatives of the Ministry of Agriculture (Department of Agriculture and Cooperation) be ushered in. The Chairman then welcomed the representatives of Department of Agriculture and Cooperation and asked them to introduce themselves. Once the introductions were over the Secretary of the Department briefed the Committee on 'The Multi-State Co-operative Societies (Amendment) Bill, 2010'.

3. The Members raised several queries pertaining to the Bill including ramifications of some of the proposed clauses viz-a-viz 'The Constitution (Ninety-seventh Amendment) Act, 2011' to which the witness duly responded to.

-3-

4. The Chairman thanked the witnesses for appearing before the Committee. He also directed them to send information on points on which information could not be provided by them during the Sitting to the Secretariat of the Committee latest by 9 November, 2012.

*(At about 1605 hours the representative of Department of Agriculture and Co-operation withdrew and the representatives of NABARD were ushered in.)*

5. After introducing themselves, the principal witness briefed the Committee on the various amendments moved by the Government in 'The Multi-State Co-operative Societies (Amendment) Bill, 2010' as well the views of NABARD on these amendments. The Members sought several clarifications from the witness, which were responded to.

*(At about 1635 hours representatives of NABARD withdrew and the representatives of IFFCO were ushered in.)*

6. Once the introductions were over the representatives of IFFCO made an audio-visual presentation before the Committee. They, thereafter, briefed the Committee about the various changes/modifications in the Bill suggested by them in their written memorandum submitted to the Committee. The Members sought several clarifications from the witnesses, which were duly responded to.

*(At about 1720 hours the representatives of IFFCO withdrew and the representatives of NCUI were ushered in.)*

7. The representatives of NCUI after having introduced themselves, briefed the Committee on the proposed Amendments in the Bill under consideration and the views of NCUI on the same. The Members sought several clarifications on the various suggestions contained in the memorandum submitted by the organization. The witnesses responded to them.

*(At about 1730 hours the Chairman withdrew from the Sitting and Shri Hukamdeo Narayan Yadav, M.P. took the Chair.)*

**-4-**

8. Before the Sitting concluded, the Acting Chairman thanked the witnesses for appearing before the Committee and sharing their views on the Subject. The Acting Chairman directed them to send information on points on which information could not be readily provided during the Sitting to the Committee Secretariat at the earliest.

A verbatim record of the proceedings has been kept separately.

***The Committee then adjourned.***

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**COMMITTEE ON AGRICULTURE  
(2012-13)**

**MINUTES OF THE SIXTH SITTING OF THE COMMITTEE**

The Committee sat on Friday, the 16<sup>th</sup> November, 2012, from 1530 hours to 1650 hours in Room No. 53, (F/F), Parliament House, New Delhi.

**PRESENT**

**Shri Basudeb Acharia - Chairman**

**MEMBERS**

**LOK SABHA**

2. Shri Narayansingh Amlabe
3. Shri Sanjay Singh Chauhan
4. Smt. Ashwamedh Devi
5. Shri L. Raja Gopal
6. Smt. Paramjit Kaur Gulshan
7. Shri Premdas Katheria
8. Shri P. Kumar
9. Dr. (Smt.) Botcha Jhansi Lakshmi
10. Sardar Sukhdev Singh Libra
11. Shri Jagdish Singh Rana
12. Shri Rajaiah Siricilla
13. Dr. Vinay Kumar Pandey 'Vinnu'
14. Shri Hukamdeo Narayan Yadav

**RAJYA SABHA**

15. Shri Satyavrat Chaturvedi
16. Smt. Mohsina Kidwai
17. Shri Dharmendra Pradhan
18. Dr. K.V.P. Ramachandra Rao
19. Shri Rajpal Singh Saini
20. Shri Shivanand Tiwari
21. Shri S. Thangavelu

**SECRETARIAT**

- |    |                     |   |                     |
|----|---------------------|---|---------------------|
| 1. | Shri P.C. Koul      | - | Additional Director |
| 2. | Shri C. Vanlalruata | - | Deputy Secretary    |

**WITNESSES****MINISTRY OF AGRICULTURE  
(DEPARTMENT OF AGRICULTURE AND CO-OPERATION)**

<b><u>S.No.</u></b>	<b><u>NAME OF THE OFFICER</u></b>	<b><u>DESIGNATION</u></b>
1.	Shri Ashish Bahuguna	Secretary
2.	Shri A.K. Thakur	Additional Secretary
3.	Shri Rajender Kumar Tiwari	Joint Secretary

2. At the outset, the Chairman welcomed the witnesses to the Sitting. Thereafter, he directed the principal witness to introduce himself and his colleagues. The Chairman and Members of the Committee sought several clarifications on 'The Multi-State Cooperative Societies (Amendment) Bill, 2010'. The witnesses responded to the queries raised by the Members.

3. Before the Sitting concluded, the Chairman thanked the witnesses for appearing before the Committee and sharing their views on the subject. He also directed them to send information on points which could not be readily responded to by them during the Sitting to the Committee Secretariat by 26 November, 2012. The Committee also decided to sit on 29 November, 2012 at 1500 hours to take further Oral Evidence on the Bill. They further decided that the representatives of Ministry of Law & Justice be also summoned for the purpose on the said day.

A verbatim record of the proceeding has been kept separately.

***The Committee then adjourned.***

**COMMITTEE ON AGRICULTURE  
(2012-13)**

**MINUTES OF THE SEVENTH SITTING OF THE COMMITTEE**

The Committee sat on Thursday, the 29<sup>th</sup> November, 2012, from 1500 hours to 1600 hours in Room No. 62, (F/F), Parliament House, New Delhi.

**PRESENT**

**Shri Basudeb Acharia - Chairman**

**MEMBERS**

**LOK SABHA**

2. Shri Narayansingh Amlabe
3. Shri Sanjay Singh Chauhan
4. Smt. Ashwamedh Devi
5. Shri L. Raja Gopal
6. Smt. Paramjit Kaur Gulshan
7. Shri Premdas Katheria
8. Dr. (Smt.) Botcha Jhansi Lakshmi
9. Sardar Sukhdev Singh Libra
10. Dr. Jyoti Mirdha
11. Dr. Vinay Kumar Pandey 'Vinnu'
12. Shri Hukamdeo Narayan Yadav

**RAJYA SABHA**

13. Shri Satyavrat Chaturvedi
14. Dr. K.V.P. Ramachandra Rao
15. Shri Shivanand Tiwari
16. Shri S. Thangavelu

**SECRETARIAT**

- |    |                     |   |                     |
|----|---------------------|---|---------------------|
| 1. | Shri R.S. Kambo     | - | Joint Secretary     |
| 2. | Shri P.C. Koul      | - | Additional Director |
| 3. | Shri C. Vanlalruata | - | Deputy Secretary    |

- 2-

**WITNESSES****MINISTRY OF AGRICULTURE  
(DEPARTMENT OF AGRICULTURE AND CO-OPERATION)**

<b><u>S.No.</u></b>	<b><u>NAME OF THE OFFICER</u></b>	<b><u>DESIGNATION</u></b>
1.	Shri Ashish Bahuguna	Secretary
2.	Shri A.K. Thakur	Additional Secretary
3.	Shri Rajender Kumar Tiwari	Joint Secretary

**MINISTRY OF LAW AND JUSTICE****(i) (DEPARTMENT OF LEGAL AFFAIRS)**

Shri M.K. Sharma	Additional Secretary
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**(ii) (LEGISLATIVE DEPARTMENT)**

1.	Dr. S.D. Singh	Joint Secretary and Legislative Counsel
2.	Dr. Rita Vasishta	Additional Legislative Counsel

2. At the outset, the Chairman welcomed the witnesses to the Sitting. Thereafter, he directed the principal witness to introduce himself and his colleagues. The Chairman and Members of the Committee sought several clarifications on 'The Multi-State Cooperative Societies (Amendment) Bill, 2010'. The witness responded to the queries raised by the Members. They also sought clarification from the representative of the Department of Legal Affairs as to whether the proposed amendments in the Bill were in line with the provisions of the Constitution (Ninety-seventh Amendment) Act, 2011. He submitted that some of these matters would require consideration by Ministry of Law and Justice *ab initio*. He, therefore, sought time for the purpose. After some consultation, he was directed to furnish replies on all these aspects by 5 December, 2012 as the Committee have to present their Report on the Bill to the Parliament during the ongoing Session.



- 3-

3. The Committee also decided to sit on 6 December, 2012 at 1500 hours to take further Oral Evidence on the Bill.

A verbatim record of the proceeding has been kept separately.

**The Committee then adjourned.**

**COMMITTEE ON AGRICULTURE  
(2012-13)**

**MINUTES OF THE NINTH SITTING OF THE COMMITTEE**

The Committee sat on Thursday, the 6<sup>th</sup> December, 2012, from 1500 hours to 1545 hours in Committee Room 'B', (G/F), Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Basudeb Acharia - Chairman**

**MEMBERS**

**LOK SABHA**

2. Shri Narayansingh Amlabe
3. Shri Sanjay Singh Chauhan
4. Smt. Ashwamedh Devi
5. Smt. Paramjit Kaur Gulshan
6. Shri Premdas Katheria
7. Sardar Sukhdev Singh Libra
8. Dr. Jyoti Mirdha
9. Shri Jagdish Singh Rana
10. Shri Rajaiah Siricilla
11. Shri Hukamdeo Narayan Yadav

**RAJYA SABHA**

12. Shri Satyavrat Chaturvedi

**SECRETARIAT**

- |    |                     |   |                     |
|----|---------------------|---|---------------------|
| 1. | Shri R.S. Kambo     | - | Joint Secretary     |
| 2. | Shri P.C. Koul      | - | Additional Director |
| 3. | Shri C. Vanlalruata | - | Deputy Secretary    |

**WITNESSES**  
**MINISTRY OF AGRICULTURE**  
**(DEPARTMENT OF AGRICULTURE AND CO-OPERATION)**

<b><u>S.No.</u></b>	<b><u>NAME OF THE OFFICER</u></b>	<b><u>DESIGNATION</u></b>
1.	Shri Ashish Bahuguna	Secretary
2.	Shri Rajendra Kumar Tiwari	Joint Secretary

**MINISTRY OF LAW AND JUSTICE**  
**(i) DEPARTMENT OF LEGAL AFFAIRS**

Shri M.K. Sharma                      Additional Secretary

**(ii) LEGISLATIVE DEPARTMENT**

Smt. Sharda Jain                      Joint Secretary and Legislative Counsel

2. At the outset, the Chairman welcomed the members to the sitting. The Committee then deliberated upon the Bill in the light of legal opinion submitted by Department of Legal Affairs. Thereafter, the Chairman directed that the witness be ushered in.

***(At around 1525 hours the witness took their seats)***

3. The Chairman welcomed them to the sitting and asked them to introduce themselves. Once the introduction was over, the Chairman and Members sought clarifications regarding some amendments proposed in 'The Multi-State Cooperative Societies (Amendment) Bill, 2010', being contradictory to the provisions of 'The Constitution (Ninety-seventh Amendment) Act, 2011'. The witness of the Department of Legal Affairs tendered his opinion on a few clauses of the Bill. However, he was of the view that the Bill required a clause by clause analysis to ensure that the proposed amendments were in consonance with the provisions of 'The Constitution (Ninety-seventh Amendment) Act, 2011'. This had not been done previously as the concerned administrative Department had not sought such a review.

A verbatim record of the proceeding has been kept separately.

***The Committee then adjourned.***

**COMMITTEE ON AGRICULTURE****(2012-13)****MINUTES OF THE TENTH SITTING OF THE COMMITTEE****\*\*\*\*\***

The Committee sat on Wednesday, the 19 December, 2012 from 1000 hours to 1030 hours in Committee Room 'B' (G/F), Parliament House Annexe, New Delhi.

**PRESENT**

Shri Basudeb Acharia - Chairman

**MEMBERS****LOKSABHA**

2. Shri Narayansingh Amlabe
3. Shri Sanjay Singh Chauhan
4. Smt. Paramjit Kaur Gulshan
5. Shri Premdas Katheria
6. Shri P. Kumar
7. Sardar Sukhdev Singh Libra
8. Dr. Jyoti Mirdha
9. Shri Devji M. Patel
10. Smt. Bhavana Gawali (Patil)
11. Shri Rajaiah Siricilla
12. Shri Hukmadeo Narayan Yadav

**RAJYA SABHA**

13. Shri Satyavrat Chaturvedi
14. Shri Parshottam Khodabhai Rupala
15. Shri Rajpal Singh Saini
16. Shri Shivanand Tiwari
17. Shri S. Thangavelu

**SECRETARIAT**

- |    |                     |   |                     |
|----|---------------------|---|---------------------|
| 1. | Shri R.S. Kambo     | - | Joint Secretary     |
| 2. | Shri P.C. Koul      | - | Additional Director |
| 3. | Shri C. Vanlalruata | - | Deputy Secretary    |

2. At the outset, the Chairman welcomed the Members to the Sitting of the Committee. The Committee then took up xxxxx xxxxx xxxxx Draft Report on "The Multi State Cooperative Societies (Amendment) Bill , 2010".

3. After some deliberations, the Committee adopted the draft Report(s) without any modification and authorized the Chairman to present both the Report(s) after getting them factually verified from the concerned Departments.

- |     |       |       |       |       |
|-----|-------|-------|-------|-------|
| *4. | xxxxx | xxxxx | xxxxx | xxxxx |
| *5. | xxxxx | xxxxx | xxxxx | xxxxx |
| *6. | xxxxx | xxxxx | xxxxx | xxxxx |

***The Committee then adjourned.***

ANNEXURE - I

AS INTRODUCED IN LOK SABHA

15 NOV 2010

Bill No. 123 of 2010

THE MULTI-STATE CO-OPERATIVE SOCIETIES  
(AMENDMENT) BILL, 2010

A  
BILL

*to amend the Multi-State Co-operative Societies Act, 2002.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Multi-State Co-operative Societies (Amendment) Act, 2010. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In the Multi-State Co-operative Societies Act, 2002 (hereinafter referred to as the principal Act), in section 5, in sub-section (1),— Amendment of section 5.

(i) in clause (a), the word "and" occurring at the end shall be omitted;

(ii) in clause (b), for the words "co-operative principles", the words "co-operative principles; and" shall be substituted;

- (iii) after clause (b), the following clause shall be inserted, namely:—  
 "(c) it gives an undertaking that, after its registration as multi-State co-operative society under this Act, it shall make available its products and services to its members:  
 Provided that the multi-State co-operative societies which have already been registered shall also comply with the provisions of this clause. "
- Amendment of section 7. 3. In section 7 of the principal Act,—  
 (a) in sub-section (2), the following proviso shall be inserted, namely:—  
 "Provided that the Central Registrar may, for reasons to be recorded in writing, extend the said period of four months to five months."; 10  
 (b) in sub-section (3),—  
 (i) for the words "a period of four months from the date of receipt of application for registration", the words, brackets and figure "a period specified for disposal of application under sub-section (2)" shall be substituted; 15  
 (ii) in the second proviso, for the words "a period of four months" the words "the period" shall be substituted.
- Amendment of section 10. 4. In section 10 of the principal Act, in sub-section (2), in clause (a), for the word "address", the words and brackets "address (including electronic-mail address)" shall be substituted. 20
- Amendment of section 11. 5. In section 11 of the principal Act, in sub-section (7), the following proviso shall be inserted, namely:—  
 "Provided that the Central Registrar may Register the amendments with such modifications as may be necessary to bring them in conformity with the provisions of this Act." 25
- Amendment of section 17. 6. In section 17 of the principal Act,—  
 (a) in sub-section (1), after clause (c), the following clause shall be inserted, namely:—  
 "(a) decide, with the approval of the Central Registrar, to wind up or convert itself into any other legal entity and to transfer its assets and liabilities in whole or in part to such legal entity."; 30  
 (b) in sub-section (3), after the word "amalgamation" the words "or winding up or conversion" shall be inserted;  
 (c) in sub-section (7),—  
 (a) after the words "formed by division", the words "or winding up or conversion into any other legal entity" shall be inserted; 35  
 (b) after the words "and the bye-laws thereof", the words "or permit winding up of the society or conversion of it into any other legal entity, as the case may be" shall be inserted;  
 (d) after sub-section (9), the following sub-sections, shall be inserted, namely:— 40  
 "(10) The provisions of this section and section 18 shall, as far as may be, apply to a multi-State co-operative society which decides to wind up or convert into any other legal entity as they apply in the case of amalgamation of a co-operative bank with any other co-operative bank.  
 (11) The Central Government may for the reasons to be recorded in writing, notwithstanding anything contained in this Act, issue such directions on such matters relating to winding up or conversion into any other legal entity, as it may deem fit." 45

7. In section 21 of the principal Act,—

Amendment  
of section 21.

(a) in sub-section (1), after the words "or to a co-operative society", the words "or to any other legal entity" shall be inserted;

(b) in sub-section (3),—

(i) after the words "or two or more co-operative societies" the words "or converts itself into any other legal entity" shall be inserted;

(ii) after the words "registration of the new societies", the words "or its conversion into any new legal entity" shall be inserted;

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

"(5) The Central Registrar may cancel the registration of a multi-State co-operative society, if he has reasons to believe that,—

(a) the registration was obtained by misrepresentation of facts, submission of false or misleading information, suppression of material facts or fraud; or

(b) the number of members or the number of societies or the number of persons as the case may be, have been, at any time reduced below the number of members or societies or persons as specified in sub-section (2) of section 6:

Provided that no registration shall be cancelled without providing an opportunity of being heard to the multi-State co-operative society."

8. In section 22 of the principal Act, in sub-section (5), for clause (c), the following clause shall be substituted, namely:—

Amendment  
of section 22.

"(c) The co-operative society shall cease to be as such under the law relating to co-operative societies in force in the State, from the date of registration of amendment of its bye-laws under sub-section (3) by the Central Registrar and the Registrar of Co-operative Societies referred to in clause (b) shall make an order to this effect, within a period of one month from the receipt of the copy of certificate under clause (b)."

9. In section 25 of the principal Act, in sub-section (4),—

Amendment  
of section 25.

(a) for the words "four months" at both the places where they occur, the words "six months" shall be substituted;

(b) for the words "refusing admission to the applicant" the words "accepting admission to the applicant" shall be substituted;

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

"Provided further that the administrator or administrators, as the case may be, appointed under this Act to manage the affairs of a multi-State co-operative society shall not admit any new member to such society without the prior approval of the Central Registrar."

10. In section 28 of the principal Act, for the words "unless he has made the payment to the society in respect of membership, or" the words "unless he has made payment in respect of all dues to the society including the payment in respect of membership or availed such minimum level of services or" shall be substituted.

Amendment  
of section 28.

11. In section 29 of the principal Act,—

Amendment  
of section 29.

(a) in clause (d), for the words "such society", the words "such society; or" shall be substituted;

(b) after clause (d), the following clause shall be inserted, namely:—



- "(e) he fails to avail the products and services made available by such multi-State co-operative society as specified in the bye-laws."
- Amendment of section 30. 12. In section 30 of the principal Act, in sub-section (2), for the words "for a period of one year from the date of such expulsion", the words "for a period which shall not exceed three years but shall not be less than one year, from the date of such expulsion, as may be specified in the bye-laws" shall be substituted. 5
- Amendment of section 32. 13. In section 32 of the principal Act, after the proviso the following proviso and *Explanation* shall be inserted, namely:—  
 "Provided further that unless the bye-laws provide otherwise, a member may exercise his vote at a meeting by electronic form in such manner as may be prescribed. 10  
*Explanation.*— For the purposes of this section, "electronic form" with reference to information means any information generated, sent, received, or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device. 15
- Amendment of section 35. 14. In section 35 of the principal Act,—  
 (a) in sub-section (1), the following proviso shall be inserted, namely:—  
 "Provided that the multi-State co-operative society may refund full or part of the share capital held by the Government who shall accept such redemption."  
 (b) in sub-section (2), for the words "on the face value of the shares" the words "on the face value or book value of shares, whichever is higher" shall be substituted; 20  
 (c) after sub-section (2), the following *Explanation* shall be inserted, namely:—  
*Explanation.*— For the purposes of this sub-section, "book value" means the value of the shares as shown in the books of account taking into account the total share capital, free reserves and surpluses. 25
- Amendment of section 38. 15. In section 38 of the principal Act, in sub-section (3), after the following proviso shall be inserted, namely:—  
 "Provided further that such administrator shall not represent the co-operative society or other multi-State co-operative society in such meetings beyond a period of six months." 30
- Amendment of section 41. 16. In section 41 of the principal Act,—  
 (a) in sub-section (3), for the second and third provisos the following provisos shall be substituted, namely:—  
 "Provided further that the board may co-opt two directors, in addition to twenty-one directors specified in the first proviso, having experience in the field of banking, management and finance or having specialisation in any field relating to the objects and activities undertaken by such multi-State co-operative society: 35  
 Provided also that so co-opted directors shall not have power to vote in the election of the office bearers or represent the multi-State co-operative society in any other multi-State co-operative society: 40  
 Provided also that a person who has lost in election to the board shall not be co-opted as director in the board on casual vacancy or otherwise:  
 Provided also that one seat shall be reserved for the Scheduled Castes or the Scheduled Tribes and two seats for women in the board of a multi-State co-operative society consisting of individuals as members and having members from such class or category of persons: 45

Provided also that the functional directors in a national co-operative society, who are officers of such society (other than the chief executive of the rank of director or above), shall also be the members of the board in accordance with its bye-laws and such members shall be excluded for the purpose of counting the total number of directors in the first proviso.”;

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

(4) Every member of a board of multi-State co-operative society who, whether directly or indirectly, is concerned or interested in a contract or arrangement or proposed contract or arrangement, entered into or to be entered into, by or on behalf of such society shall disclose the nature of his concern or interest and that of his relatives at a meeting of the board.

*Explanation.*— For the purposes of this clause, the term "relative" with reference to an individual means the spouse, brother, sister and all lineal ascendants and descendants of such individual related to him either by marriage or adoption.

(5) No director of a multi-State co-operative society shall, as a director, be present in the discussion of, or vote on, any contract or arrangement entered into, or to be entered into, by or on behalf of such society, if he is directly or indirectly concerned or interested in the contract or arrangement.

(6) The board of a multi-State co-operative society shall be collectively responsible to the general body of the society.

17. After section 41 of the principal Act, the following section shall be inserted, namely:—

41A. (1) If the Central Registrar at any time, is of the opinion that a multi-State co-operative society has become sick, it may, by order, declare such society as a sick co-operative society.

(2) Where a multi-State co-operative society is declared sick under sub-section (1), the Central Government may, on the recommendation of Central Registrar, constitute an interim board for a maximum period of five years consisting of experts in the field of co-operation, management, finance, accountancy and in other areas relating to such multi-State co-operative society for the purpose of preparing and implementing a scheme for rehabilitation or revival of such multi-State co-operative society.

(3) The board of directors of such multi-State co-operative society, after constitution of interim board, shall not function and discharge its functions as such:

Provided that the board of directors shall cease to exist on the completion of its term.

(4) The Central Registrar, if at any time during which the interim board has been constituted, is of the opinion that the society has become viable, it may dissolve such interim board and thereafter the board of directors existing before constitution of interim board shall function as per provisions of this Act.

*Explanation.* — For the purpose of this section "sick co-operative society" means a multi-State co-operative society being a society registered under the provisions of this Act which has at the end of any financial year accumulated losses equal to or exceeding total of its paid-up capital, free reserves and surpluses and has also suffered cash losses in such financial year and the financial year immediately preceding such financial year.

Insertion of new section 41A.

Constitution of interim board.

Amendment  
of section 43.

18. In section 43 of the principal Act, in sub-section (2),—

(a) in clause (c), for the words "general meeting", the words "general meeting; or" shall be substituted;

(b) after clause (c), the following clauses shall be inserted, namely:—

"(d) to make contribution to the co-operative education fund referred to in clause (b) of sub-section (1) of section 63 or Co-operative Rehabilitation and Reconstruction Fund established under section 63A; or

(e) to file the statutory returns within the time specified under section 120."

Amendment  
of section 45.

19. In section 45 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Government may, by notification, appoint an Authority to be known as the Co-operative Election Authority for conduct of elections for such societies as may be prescribed and the superintendence, direction and control of preparation of electoral rolls for, and the conduct of election of such multi-State co-operative societies shall be vested in returning officer as may be appointed by the Election Authority and the returning officer shall discharge such function under the control of the Election Authority in such manner as may be prescribed:

Provided that where such Authority has not been appointed in respect of a multi-State co-operative society, the elections to the boards of such society shall be conducted by the existing board of such society."

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

"Provided further that the term of office bearers shall be co-terminus with the term of board of directors:

Provided also that only elected or nominated members of the board shall be eligible to be elected as chairman or vice-chairman or president or vice-president of the board:

Provided also that the board may fill a casual vacancy of the members of the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term."

(c) in sub-section (6), the following proviso and *Explanation* shall be inserted, namely:—

"Provided that the Central Registrar may, for the reasons to be recorded in writing, extend said period of ninety days up to one year.

*Explanation.*— For the purpose of this proviso, the period of one year specified therein shall be reckoned from the date on which the election became due and any period for which such elections were stayed by any tribunal or court shall be excluded."

(d) for sub-section (7), the following sub-sections shall be substituted, namely:—

"(7) No person shall be eligible to be elected as a member of the board or office bearer of a multi-State co-operative society unless he is an active member of the general body of that society.

*Explanation.*— For the purpose of this sub-section "active member" shall mean any member availing such minimum level of services or products of the society as may be specified in the bye-laws of the society.

(7A) A member of the board or office bearer of a multi-State co-operative society shall cease to be such member or office bearer if he ceases to be a member of general body of that society.;

(e) in sub-section (8), after the words "by the Central Registrar" the words "or the Election Authority" shall be inserted.

20. In section 49 of the principal Act, in sub-section (2), for clause (m), the following clauses shall be substituted, namely:— Amendment of section 49.

"(m) to elect president and vice-president of the multi-State co-operative society from amongst the elected or nominated members of the board in accordance with the bye-laws of the multi-State co-operative society; and

(n) to take such other measures or to do such other acts as may be prescribed or required under this Act or the bye-laws or as may be delegated by the general body."

21. In section 50 of the principal Act,— Amendment of section 50.

(a) in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that where the chairperson or president of a multi-State co-operative society fails to fix a date of the meeting of the board, the Chief Executive shall, on receipt of requisition from one-fourth of the directors, convene the meeting of the board.;"

(b) in sub-section (3), after the words "meeting of the board", the words "the vice-chairperson and in the absence of both," shall be inserted;

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

"(4) The quorum for a meeting of the board of directors of a multi-State co-operative society shall be one-third of its total strength and the participation of the directors by video-conferencing or by other electronic means shall also be counted for the purpose of quorum under this sub-section."

22. In section 52 of the principal Act, in clause (j), for the words "thirty days", the words "forty-five days" shall be substituted. Amendment of section 52.

23. In section 53 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:— Amendment of section 53.

"(1) The board may constitute an Executive Committee, and such other committees or sub-committees as may be specified in the bye-laws of the multi-State co-operative society.

(1A) The board shall constitute an audit and ethics committee in accordance with bye-laws which shall meet once in three months."

24. After section 63 of the principal Act, the following section shall be inserted, Insertion of new section 63A.

63A. (1) The Central Government shall establish a fund to be called the Co-operative Rehabilitation and Reconstruction Fund (hereafter in this section referred to as the "Fund " ). Establishment of Co-operative Rehabilitation and Reconstruction Fund.

(2) There shall be credited to the Fund the following amounts, namely:—

(a) a multi-State co-operative society registered under this Act shall credit 0.005% to 0.1% of its turnover, subject to a maximum of Rs. 3.00 crores per year, as may be prescribed;

(b) grants and donations given to the Fund by the Central Government, State Government and other National and International agencies approved by the Government from time to time for making contribution to this Fund;

(c) the interest or other income received out of the investment made from the Fund.

(3) The Fund shall be utilised for rehabilitation and strengthening of sick co-operative societies referred to in section 41A.

(4) The Central Government shall by notification in the Official Gazette, specify an authority or committee, with such members as the Central Government may appoint, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(5) It shall be competent for the authority or committee appointed under sub-section (4) to spend moneys out of the Fund for carrying out the objects for which the Fund has been established.

Amendment  
of section 67.

25. In section 67 of the principal Act,—

(a) in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the multi-State co-operative society doing the banking business shall be governed by directions issued by Reserve Bank of India in this behalf.;"

(b) in sub-section (3),—

(a) for the words "twenty-five per cent. of its paid-up share capital" the words "its paid-up share capital, free reserves and surpluses" shall be substituted;

(b) the following proviso shall be inserted, namely:—

"Provided that the multi-State co-operative society doing the banking business shall be governed by directions issued by the Reserve Bank of India or any other authority competent to do so under any law for the time being in force in this behalf."

Amendment  
of section 70.

26. In section 70 of the principal Act, in sub-section (7), in clause (a), for the proviso the following proviso shall be substituted, namely:—

"Provided that where such vacancy is caused by the resignation or death of an auditor, the vacancy shall be filled by the board out of the panel of auditors approved by the Central Registrar."

Amendment  
of section 73.

27. In section 73 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) The Central Government may, by notification, lay down auditing and accounting standards to be adopted by multi-State co-operative societies or class of multi-State co-operative societies:

Provided that multi-State co-operative societies doing the banking business shall adopt accounting and auditing standards if any laid down by Reserve Bank of India in this behalf.

Provided further that until such auditing standards are laid down, auditing standards specified by the Institute of Chartered Accountants of India shall be deemed to be the auditing and accounting standards."

28. In section 77 of the principal Act,—

Amendment  
of section 77.

(a) in sub-section (1), the proviso shall be omitted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Central Government may order for a special audit of a multi-State co-operative society where the Central Government or a State Government holds any share capital or shares in such multi-State co-operative society."

29. In section 78 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amendment  
of section 78.

"(1) Where on a scrutiny of any document filed by a multi-State co-operative society or otherwise, the Central Registrar is of the opinion that any further information or explanation or any further documents relating to the multi-State co-operative society is necessary, he may, by a written notice, require the multi-State co-operative society—

(i) to furnish in writing such information or explanation; or

(ii) to produce such documents,

within such reasonable time, as may be specified in the notice.

(1A) If the Central Registrar is satisfied on the basis of information available with or furnished to him or on a representation made to him by any person that the business of a multi-State co-operative society is being carried on for a fraudulent or unlawful purpose, he may, after informing the multi-State co-operative society of the allegations made against it by a written order, call on the multi-State co-operative society to furnish in writing any information or explanation on matters specified in the order within such time as he may specify therein, and hold such inquiry as he deems fit.

Provided that the Central Government may, if it is satisfied that circumstances so warrant, direct, the Central Registrar or an inspector appointed by it for the purpose, to hold an inquiry under this sub-section.

(1B) The Central Registrar may, on a request from a federal co-operative to which a multi-State co-operative society is affiliated or a creditor or not less than one-third of the members of the board or not less than one-fifth of the total number of members of a multi-State co-operative society, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a multi-State co-operative society:

Provided that no inquiry under this sub-section shall be held unless a notice of not less than fifteen days has been given to the multi-State co-operative society."

30. In section 84 of the principal Act,—

Amendment  
of section 84.

(a) in sub-section (1), for the words "such dispute shall be referred to arbitration", the words "such dispute shall be referred to the Central Registrar" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Central Registrar may, on receipt of the reference of dispute under sub-section (1),—

(a) decide the dispute himself; or

(b) transfer it for decision to such person and upon such terms and conditions as may be specified,

and the order passed under this sub-section shall be final and binding on the multi-State co-operative societies and other concerned parties and shall not be called in question in any court:

Provided that the Central Registrar may, at any time after transferring the dispute under clause (b) and after recording the reason for doing so withdraw the dispute so transferred and decide the dispute himself.

*Explanation.*— For the removal of doubts, it is clarified that power to decide dispute under this section includes the power to pass interim order;

(c) in sub-section (3), —

(a) for the word "arbitration", the words "Central Registrar" shall be substituted;

(b) for the word "arbitrator", the words, brackets, letters and figures "Central Registrar or person authorised by him under clause (b) of sub-section (1A)" shall be substituted;

(d) sub-sections (4) and (5) shall be omitted.

Amendment  
of section 94.

31. In section 94 of the principal Act,—

(a) in the opening paragraph, after the words and figures "section 83 or" the words and figures "section 84 or" shall be inserted;

(b) after clause (c), the following clause shall be inserted, namely:—

"(d) where the decision or order provides for recovery on account of the default in contribution to the co-operative education fund referred to in clause (b) of sub-section (1) of section 63 or Co-operative Rehabilitation and Reconstruction Fund established under section 63A, the Central Registrar shall issue the certificate of recovery and forward it to any other authority for execution according to the law for the time being in force for the recovery as arrears of land revenue."

Amendment  
of section  
103.

32. In section 103 of the principal Act, after sub-section (1), the following provisos shall be inserted, namely:—

"Provided that the said multi-State co-operative society shall submit an application for registration and such information to obtain the certificate of registration from the Central Registrar as provided in this Act:

Provided further that in case all the successor States take necessary steps to divide or reorganise the said multi-State co-operative society into State co-operative Societies to confine their objects, services and the members to respective States within such period as may be prescribed, such society shall not be deemed to be a multi-State co-operative society under the provisions of this Act and the Central Registrar may cancel the registration of such multi-State co-operative society by an order in writing."

Amendment  
of section  
104.

33. In section 104 of the principal Act,—

(a) in sub-section (1),—

(i) after the words "making a false return", the words "or failing to file returns" shall be inserted;

(ii) for the words "two thousand rupees" the words "five thousand rupees" shall be substituted;

(iii) for the words "extend to ten thousand rupees", the words "extend to fifty thousand rupees" shall be substituted;

(b) in sub-section (2), for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(c) in sub-section (3), —

(i) after the word and figures "section 89", the words and figures "or to a person required to file return under section 120" shall be inserted;

(ii) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;

(iii) for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted.

10 34. Section 106 of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1), so numbered the following sub-section shall be inserted, namely:— Amendment of section 106.

"(2) Every multi-State co-operative society shall appoint a Co-operative Information Officer to provide, on application made to him and on payment of such fee as may be prescribed, information about the affairs and management of the society, within thirty days from the date of receipt of application.

15 (3) Every multi-State co-operative society shall also appoint a Chief Information Officer who shall hear and dispose of any complaint regarding the non-supply of information by the Co-operative Information Officer within the time specified in sub-section (2).

20 (4) Any person, aggrieved by the order of the Chief Information Officer, may file an appeal before the Central Registrar whose decision thereon shall be final:

Provided that the Central Registrar may impose penalty on the officers responsible for non-furnishing of information to the amount of two hundred and fifty rupees for each day of delay above the specified period.

25 (5) The manner of appeal, the time within which such appeal may be filed and the procedure of appeal shall be such as may be prescribed."

35. In section 108 of the principal Act, in sub-section (1), in clause (i), after the words "Central Registrar", the words "or any person authorised by him in this behalf" shall be inserted. Amendment of section 108.

30 36. After section 120 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 120A.

21 of 2000 "120A. (1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions contained in the Information Technology Act, 2000, the Central Government may, from such date as may be prescribed, require that—

35 (a) such applications, balance sheet, return, or any other particulars or document as may be required to be filed or delivered under this Act or rules made thereunder, shall be filed in the electronic form and authenticated in such manner as may be prescribed;

40 (b) such document, notice, any communication or intimation, as may be required to be served or delivered under this Act, shall be served or delivered under this Act in the electronic form and authenticated in such manner as may be prescribed;

45 (c) such applications, balance sheets, returns, registers, bye-laws or any other particulars or documents and returns filed under this Act or rules made thereunder shall be maintained by the Central Registrar in the electronic form and registered or authenticated, as the case may be, in such manner as may be prescribed;

Filing of applications, documents, inspections, etc. in electronic form.



(d) such inspection of the bye-laws, balance sheets, returns or any other particulars or documents maintained in the electronic form, as is otherwise available for inspection under this Act or rules made thereunder, may be made by any person through the electronic form in such manner as may be prescribed;

(e) such fees, charges or other sums payable under this Act or rules made thereunder shall be paid through the electronic form and in such manner as may be prescribed.

(2) The Central Registrar shall register change of registered office, amendment of bye-laws, issue certificate of registration, register such document, issue such certificate, record notice, receive such communication as may be required to be registered or issued or recorded or received, as the case may be, under this Act or rules made thereunder or perform duties or discharge functions or exercise powers under this Act or rules made thereunder or do any act which is by this Act directed to be performed or discharged or exercised or done by the Central Registrar in the electronic form in such manner as may be prescribed.

(3) The Central Government may also provide that the electronic form for the purpose in this section shall be exclusive or alternative or in addition to the physical form in such manner as may be prescribed.

*Explanation.*— For the removal of doubts, it is hereby clarified that the rules made under this section shall not relate to imposition of fines or other pecuniary penalties or demand or payment of fees or contravention of any of the provisions of this Act or punishment therefor.

(4) The Central Government may, by notification, frame a scheme to carry out the provisions of sub-section (1) through the electronic form.”

Amendment  
of section  
124.

37. In section 124 of the principal Act, in sub-section (2),—

(a) after clause (g), the following clause shall be inserted, namely:—

“(ga) the manner of exercising vote in electronic form under the proviso to section 32”;

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

“(ja) the co-operative societies for which the election shall be conducted;

“(jb) the functions to be discharged and the manner in which those are to be discharged by the returning officer”;

(c) after clause (m), the following clause shall be inserted, namely:—

“(ma) other measures or acts under clause (n) of sub-section (2) of section 49”;

(d) after clause (r), the following clauses shall be inserted, namely:—

“(ra) the turnover under clause (a) of sub-section (2) of section 63A;

“(rb) the form in which the accounts or other relevant records shall be maintained under sub-section (4) of section 63A”;

(e) after clause (w), the following clauses shall be inserted, namely:—

“(wa) period within which the multi-State Co-operative society shall divide or reorganise under the proviso to sub-section (1) of section 103;

“(wb) the fee under sub-section (2) of section 106;

“(wc) the manner, time and procedure of appeal under sub-section (5) of section 106”;

(f) after clause (x), the following clauses shall be inserted, namely:—

"(xa) the documents, notice, etc., required to be filed or delivered, or served in electronic form under sub-section (1) of section 120A;

(xb) the manner of electronic form under sub-section (2) of section 120A;"

## STATEMENT OF OBJECTS AND REASONS

The Multi-State Co-operative Societies Act, 2002 repealing the earlier law, that is, the Multi-State Co-operative Societies Act, 1984 was enacted with a view to consolidating the provisions relating to the Multi-State Co-operative Societies registered with objects not confined to one State and serving the interests of members in more than one State, to facilitate the voluntary formation and democratic functioning of co-operatives as people's institutions based on self-help and mutual aid and to enable them to promote their economic and social betterment and to provide functional autonomy. The Multi-State Co-operative Societies Act, 2002 came in force with effect from the 19th August, 2002.

2. With the passage of time and developments in the co-operative movement in the country, certain difficulties have been experienced by the Multi-State Co-operative Societies in the implementation of the Multi-State Co-operative Societies Act, 2002. Conference of the State Co-operative Ministers was held on the 7th December, 2004 to, *inter alia*, ascertain the difficulties experienced by the Multi-State Co-operative Societies. In pursuance of the resolution passed in the said conference, a High Powered Committee of Co-operatives was constituted under the Chairmanship of Shri S.G. Patil.

3. In view of the recommendations made in the Report of aforesaid High Powered Committee and suggestions received from the co-operative sector and other stake holders and considering the importance of Multi-State Co-operative Societies in the national economy and the experience gained during the last eight years of implementation of the Multi-State Co-operative Societies Act, 2002, it has been felt that the said Act should be amended to keep the legislation in tune with the changing economic policies and to facilitate the Multi-State Co-operative Societies to take advantage of the new and emerging opportunities and to keep pace with other economic entities and facilitate raising of resources by the Multi-State Co-operative Societies more efficiently and effectively by making appropriate provisions for promoting their functional autonomy.

4. The Bill proposes to amend the Multi-State Co-operative Societies Act, 2002, *inter alia*, to—

(a) make the management of these co-operative societies more responsible to the members and accountable by making provision for (i) constitution of Interim Board, (ii) accounting standards, (iii) constitution of Audit and Ethics Committee; (iv) calling for information or explanation by the Central Registrar of the Multi-State Co-operative Societies, (v) Special Audit;

(b) strengthen the provision relating to election of the members of the Board of the Multi-State Co-operative Societies;

(c) make provisions for broad based representation in the Board of the Multi-State Co-operative Societies by providing reservation for the Scheduled Castes, the Scheduled Tribes and women;

(d) take certain measures which would facilitate the building of self-reliant, democratic and professionally efficient co-operative institutions;

(e) bringing transparency in the functioning of the Multi-State Co-operative Societies by making provision for appointment of Co-operative Information Officer, Chief Information Officer for providing information about the affairs and management of the Multi-State Co-operative Societies and also make provision for appeal.

5. The Notes on clauses appended to the Bill explain the provisions of the Bill in detail.
6. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*the 22nd October, 2010.*

SHARAD PAWAR

## Notes on clauses

*Clause 2.*—This clause seeks to amend section 5 of the Multi-State Co-operative Societies Act, 2002 relating to the Multi-State Co-operative Societies which may be registered.

It is proposed to amend sub-section (1) of the aforesaid section, *inter alia*, to impose an obligation upon the Multi-State Co-operative Societies to give an undertaking to the effect that it shall make available its products and services to its members, after its registration as multi-State co-operative society under the Multi-State Co-operative Societies Act, 2002.

*Clause 3.*—This clause seeks to amend section 7 of the Multi-State Co-operative Societies Act, 2002 relating to registration of the Multi-State Co-operative Societies.

It is proposed to amend the aforesaid section to extend the period for disposal of application for registration from four months to five months after recording reasons therefor.

*Clause 4.*— This clause seeks to amend section 10 of the Multi-State Co-operative Societies Act, 2002 relating to bye-laws of the Multi-State Co-operative Societies.

It is proposed to amend sub-section (2) of the aforesaid section to include electronic-mail address in the address of the society.

*Clause 5.*—This clause seeks to amend section 11 of the Multi-State Co-operative Societies Act, 2002 relating to amendment of bye-laws of the Multi-State Co-operative Societies.

It is proposed to amend sub-section (7) of the aforesaid section to provide for registration of amendments with such modifications as may be necessary to bring them in conformity with the provisions of the Act.

*Clause 6.*—This clause seeks to amend section 17 of the Multi-State Co-operative Societies Act, 2002 relating to amalgamation or transfer of assets and liabilities or division of Multi-State Co-operative Societies.

It is proposed to amend the aforesaid section, *inter alia*, to enable the Society to decide, with the approval of the Central Registrar, to wind up or convert itself into any other legal entity and to transfer its assets and liabilities in whole or in part to such legal entity.

*Clause 7.*—This clause seeks to amend section 21 of the Multi-State Co-operative Societies Act, 2002 relating to cancellation of registration certificate of Multi-State Co-operative Societies.

It is proposed to amend the aforesaid section, *inter alia*, providing for cancellation of registration if such registration has been obtained by misrepresentation of facts, submission of false or misleading information, suppression of material facts or fraud; or the number of members or the number of societies or the number of persons as the case may be, which have been at any time reduced below the number of members or societies or persons as specified in sub-section (2) of section 6 of the principal Act.

*Clause 8.*—This clause seeks to amend section 22 of the Multi-State Co-operative Societies Act, 2002 relating to conversion of a co-operative society into a Multi-State Co-operative Society.

It is proposed to amend sub-section (5) of the aforesaid section to provide that the co-operative society shall cease to be as such under the law relating to co-operative societies in force in the State, from the date of registration of amendment of its bye-laws by the Central Registrar and the Registrar of co-operative societies of the State shall make an order to this effect, within a period of one month from the receipt of the copy of registration certificate.

*Clause 9.*—This clause seeks to amend section 25 of the Multi-State Co-operative Societies Act, 2002 relating to persons who may become members of the Multi-State Co-operative Societies.

It is Proposed to amend sub-section (4) of the aforesaid section to extend the period for disposal of application for admission as a member of the society from four to six months and providing for that the administrator or administrators, as the case may be, appointed under this Act to manage the affairs of a multi-State co-operative society shall not admit any new member to such society without the prior approval of the Central Registrar.

*Clause 10.*—This clause seeks to amend section 28 of the Multi-State Co-operative Societies Act, 2002 relating to exercising the rights by members.

It is proposed to amend the aforesaid section to provide that the member shall not exercise his rights unless he has made payment in respect of all dues to the society including the payment in respect of membership or availed minimum level of services as may be specified in the bye-laws.

*Clause 11.*—This clause seeks to amend section 29 of the Multi-State Co-operative Societies Act, 2002 relating to disqualifications for being member of a Multi-State Co-operative Society.

It is proposed to amend the aforesaid section to provide that failure to avail the product and services made available by the society as specified in its bye-laws may render a person ineligible for being a member of the society.

*Clause 12.*—This clause seeks to amend section 30 of the Multi-State Co-operative Societies Act, 2002 relating to expulsion of members.

It is proposed to amend sub-section (2) of the aforesaid section to extend the time period from one to three years as may be specified in the bye-laws from the date of expulsion of the member for being eligible for re-admission as member.

*Clause 13.*—This clause seeks to amend section 32 of the Multi-State Co-operative Societies Act, 2002 relating to manner of exercising vote.

It is proposed to provide that the member may also exercise his vote at a meeting through electronic form.

*Clause 14.*— This clause seeks to amend section 35 of the Multi-State Co-operative Societies Act, 2002 relating to redemption of shares in Multi-State Co-operative Society.

It is proposed to amend sub-section (1) and sub-section (2) of the aforesaid section to provide that the society may refund full or part of the share capital held by the Government who shall accept such redemption on the face value or book value of shares, whichever is higher.

*Clause 15.*—This clause seeks to amend section 38 of the Multi-State Co-operative Societies Act, 2002 relating to constitution, powers and functions of general body.

It is proposed to amend sub-section (3) of the aforesaid section with a view to provide that the administrator shall not represent the co-operative society or other multi-State co-operative society beyond a period of six months.

*Clause 16.*—This clause seeks to amend section 41 of the Multi-State Co-operative Societies Act, 2002 relating to board of directors of Multi-State Co-operative Societies.

It is proposed to amend sub-section (3) and insert sub-sections (4), (5) and (6) in the aforesaid section to specify the field of expertise for the co-opted directors and to provide reservation of seat for the Scheduled Castes and the Scheduled Tribes and women in the board of the society. It is also proposed to provide that the director shall disclose the nature of his concern or interest and of that of his relatives at the meeting of the board of the society and he shall not be present in the discussion of or vote on any contract or arrangement in which he is concerned or interested.

*Clause 17.*—This clause seeks to insert section 41A after section 41, of the Multi-State Co-operative Societies Act, 2002.

It is proposed to insert the aforesaid section to provide for the constitution of interim board for rehabilitation or revival of sick society.

*Clause 18.*—This clause seeks to amend section 43 of the Multi-State Co-operative Societies Act, 2002 relating to disqualification for being a member of the board of Multi-State Co-operative Society.

It is proposed to amend sub-section (2) of the aforesaid section with a view, *inter alia*, to provide that default by members in making contribution to the Co-operative Education Fund or Co-operative Rehabilitation and Reconstruction Fund and filing the statutory returns within the specified time shall render them ineligible for being elected as members of the board.

*Clause 19.*—This clause seeks to amend section 45 of the Multi-State Co-operative Societies Act, 2002 relating to elections of members of the board of Multi-State Co-operative Societies.

It is proposed to amend the aforesaid section to provide, *inter alia*, that the Central Government shall appoint Co-operative Election Authority for conduct of elections in the society. It also seeks to provide that the term of office bearers shall be co-terminus with the term of board of directors and only elected or nominated members of the board shall be eligible to be elected as Chairman or Vice-Chairman or President or Vice-President of the board. It further seeks to provide that the board may fill a casual vacancy of the members of the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term. It also seeks to provide for extension of period for conduct of election by the Central Registrar from ninety days up to one year. It also seeks to stipulate that no person shall be eligible to be elected as a member of the board or office bearer of a multi-State co-operative society unless he is an active member of the general body of that society.

*Clause 20.*—This clause seeks to amend section 49 of the Multi-State Co-operative Societies Act, 2002 relating to powers and functions of the board of Multi-State Co-operative Society.

It is proposed to amend sub-section (2) of the aforesaid section with a view to empower the board to elect President and Vice-President of the society from amongst the elected or nominated members of the board.

*Clause 21.*—This clause seeks to amend section 50 of the Multi-State Co-operative Societies Act, 2002 relating to meetings of the board of Multi-State Co-operative Society.

It is proposed to amend the aforesaid section to provide for convening of meeting of the board by the chief executive on receipt of requisition from one-fourth of the directors. It also provides for quorum of the meeting of the board of directors and participation of the directors through video conferencing or through other electronic means to be counted for the purpose of quorum.

*Clause 22.*—This clause seeks to amend section 52 of the Multi-State Co-operative Societies Act, 2002 relating to powers and functions of the Chief Executive.

It is proposed to amend the aforesaid section with a view to extend the period for presentation of the draft, annual report and financial statement for the approval of board from thirty to forty-five days.

*Clause 23.*—This clause seeks to amend section 53 of the Multi-State Co-operative Societies Act, 2002 relating to the committees of the board of Multi-State Co-operative Society.

It is proposed to amend sub-section (I) and insert sub-section (IA) in the aforesaid section with a view to empower the board to constitute executive committee and other committees or sub-committees. It also seeks to provide that the board shall constitute an audit and ethics committee.

*Clause 24.*—This clause seeks to insert section 63A after section 63 of the Multi-State Co-operative Societies Act, 2002.

It is proposed to insert the aforesaid section with a view to provide for establishment of Co-operative Rehabilitation and Reconstruction Fund.

*Clause 25.*—This clause seeks to amend section 67 of the Multi-State Co-operative Societies Act, 2002 relating to restrictions on borrowing by the Multi-State Co-operative Society.

It is proposed to amend the aforesaid section to provide that the multi-State co-operative society doing banking business shall be governed by the directions issued by Reserve Bank of India. It also seeks to remove the existing restriction on borrowings by the society to the extent of only twenty-five per cent of its paid-up share capital and proposes to allow the society to raise resources to the extent of its paid-up share capital, free reserves and surpluses.

*Clause 26.*—This clause seeks to amend section 70 of the Multi-State Co-operative Societies Act, 2002 relating to appointment and remuneration of auditors.

It is proposed to amend sub-section (7) of the aforesaid section to empower the board to fill up the vacancy of auditor caused by the resignation or death of auditor from out of the panel of auditors approved by the Central Registrar.

*Clause 27.*—This clause seeks to amend section 73 of the Multi-State Co-operative Societies Act, 2002 relating to powers and duties of auditors.

It is proposed to insert sub-section (6) to the aforesaid section to provide for laying down of auditing and accounting standards by the Central Government.

*Clause 28.*—This clause seeks to amend section 77 of the Multi-State Co-operative Societies Act, 2002 relating to the power of the Central Government to direct special audit in certain cases.

It is proposed to amend sub-section (I) and insert sub-section (IA) in the aforesaid section to empower the Central Government to order for special audit where Central or State Government holds share capital or shares.

*Clause 29.*—This clause seeks to amend section 78 relating to inquiry by the Central Registrar.

It is proposed to amend sub-section (I) and insert sub-sections (IA) and (IB) in the aforesaid section to empower the Central Registrar to call from the society any information or explanation and documents. It also provides for holding of enquiry by the Central Registrar if it is found that the business of the society is being carried on for a fraudulent or unlawful purpose.

*Clause 30.*—This clause seeks to amend section 84 of the Multi-State Co-operative Societies Act, 2002 relating to reference of disputes.

It is proposed to amend the aforesaid section, *inter alia*, to provide that any of dispute shall be referred to the Central Registrar instead of arbitrator and that the Central Registrar on receipt of the reference of dispute may decide the dispute himself or transfer it for decision to such person and upon such terms and conditions as may be specified.

*Clause 31.*—This clause seeks to amend section 94 of the Multi-State Co-operative Societies Act, 2002 relating to execution of decisions etc.



It is proposed to amend the aforesaid section to provide that in case of default, the contribution to the co-operative education fund shall be recovered as land revenue.

*Clause 32.*—This clause seeks to amend section 103 of the Multi-State Co-operative Societies Act, 2002 relating to co-operative societies functioning immediately before reorganisation of States.

It is proposed to amend sub-section (1) of the aforesaid section to provide for cancellation of registration by Central Registrar of the deemed multi-State co-operative society if all the successor States take necessary steps to divide or reorganise the said multi-State co-operative society into State co-operative societies.

*Clause 33.*—This clause seeks to amend section 104 of the Multi-State Co-operative Societies Act, 2002 relating to offences and penalties.

It is proposed to amend the aforesaid section to increase the amount of penalty for the specified offences.

*Clause 34.*—This clause seeks to amend section 106 of the Multi-State Co-operative Societies Act, 2002 relating to copies of bye laws etc. to be made open to inspection.

It is proposed to insert sub-section (2) to the aforesaid section to provide for appointment of Co-operative Information Officer, Chief Information Officer for providing information about the affairs and management of the society and also make a provision for appeal.

*Clause 35.*—This clause seeks to amend section 108 of the Multi-State Co-operative Societies Act, 2002 relating to inspection of books of accounts, etc. of Multi-State Co-operative Societies.

It is proposed to amend sub-section (1) of the aforesaid section to provide for inspection of books of accounts, etc. of the society by Central Registrar or any person authorised by him on his behalf.

*Clause 36.*—This clause seeks to insert section 120A after section 120 of the Multi-State Co-operative Societies Act, 2002.

It is proposed to insert the aforesaid section to provide for filing of applications, documents, etc. in electronic form.

*Clause 37.*—This clause seeks to amend section 124 of the Multi-State Co-operative Societies Act, 2002 relating to the power of the Central Government to make rules.

It is proposed to amend sub-section (2) of the aforesaid section to include certain specified matters under the provision of power to make rules.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules to provide for the manner of exercising vote in electronic form.

2. Clause 19 of the Bill empowers the Central Government to make rules for specifying (a) the co-operative societies for which the elections shall be conducted by the Cooperative Election Authority; (b) the function to be discharged and the manner in which those are to be discharged by the returning officer appointed by the Election Authority.

3. Clause 24 of the Bill empowers the Central Government to make rules to provide for (a) the percentage of turnover of a multi-State co-operative society to be credited to the Co-operative Rehabilitation and Reconstruction Fund; and (b) the form for maintenance of separate account and other relevant records in relation to the Fund in consultation with the Comptroller and Auditor General of India.

4. Clause 32 of the Bill empowers the Central Government to specify the period within which all the successor States shall take necessary steps to divide or re-organise the multi-State co-operative societies into State co-operative societies to confine their objects, services and the members to respective States.

5. Clause 34 of the Bill empowers the Central Government to make rules to specify (a) the fee for obtaining information from the Co-operative Information Officer about the affairs and management of the society; and (b) the manner, time for filing and procedure of appeal.

6. Clause 36 of the Bill empowers the Central Government to make rules (a) to specify a date and the manner of authentication of application and other documents to be filed or delivered in electronic form, (b) for the manner of authentication of the document and notice, etc. served or delivered in the electronic form, (c) the manner for registration or authentication of applications, balance sheet, etc. maintained by the Central Registrar in electronic form, (d) the manner of inspection of bye-laws, balance sheet, etc. to be made through the electronic form, (e) the manner of payment of fees, charges or other sums through the electronic form, (f) the manner of performing duties or discharging functions or exercising powers or doing any other act to be performed or discharged or exercised or done by the Central Registrar in the electronic form, and (g) the manner to provide the electronic form to be exclusive or alternative or in addition to the physical form.

7. The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure and administrative detail and it is not practical to provide for them in the Bill itself. The rules made under this Bill are also required to be laid before Parliament. The delegation of legislative power is, therefore, of a normal character.

## ANNEXURE

EXTRACTS FROM THE MULTI-STATE CO-OPERATIVE SOCIETIES ACT, 2002  
(39 OF 2002)

Multi-State  
co-operative  
societies  
which may be  
registered.

5. (1) No multi-State co-operative society shall be registered under this Act, unless,—

(a) its main objects are to serve the interests of members in more than one State;

and

(b) its bye-laws provide for social and economic betterment of its members through self-help and mutual aid in accordance with the co-operative principles.

Registration.

7. (1)

(2) The application for registration shall be disposed of by the Central Registrar within a period of four months from the date of receipt thereof by him.

(3) Where the Central Registrar refuses to register a multi-State co-operative society, he shall communicate, within a period of four months from the date of receipt of the application for registration, the order of refusal together with the reasons therefor to the applicant or applicants, as the case may be:

Provided that no order of refusal shall be made unless the applicants have been given a reasonable opportunity of being heard:

Provided further that if the application for registration is not disposed of within a period of four months specified in sub-section (2) or the Central Registrar fails to communicate the order of refusal within that period, the application shall be deemed to have been accepted for registration and the Central Registrar shall issue the registration certificate in accordance with the provisions of this Act and the rules made thereunder.

Bye-laws of  
multi-State co-  
operative  
societies.

10. (1)

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the following matters, namely:—

(a) the name, address and area of operation of the society;

Amendment  
of bye-laws of  
a multi-State  
co-operative  
society.

11. (1)

(7) If, on receipt of application under sub-section (5), the Central Registrar is satisfied that the proposed amendment—

(a) is not contrary to the provisions of this Act or of the rules;

(b) does not conflict with co-operative principles; and

(c) will promote the economic interests of the members of the multi-State co-operative society,

he may register the amendment within a period of three months from the date of receipt thereof by him.

Amalgamation  
or transfer of  
assets and  
liabilities, or  
division of  
multi-State  
co-operative  
societies.

17. (1) A multi-State co-operative society may, by a resolution passed by a majority of not less than two-thirds of the members, present and voting at a general meeting of the society held for the purpose,—

(3) The resolution of a multi-State co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer or division or amalgamation, as the case may be.

(7) On receipt of an application for the registration of new societies formed by division in accordance with the resolution passed under sub-section (1) or of a new society formed by amalgamation in accordance with the resolution passed under sub-section (2), the Central Registrar, on being satisfied that the resolution has become effective under sub-section (6) shall, unless for reasons to be recorded in writing he thinks fit to refuse so to do, register the new society or societies, as the case may be, and the bye-laws thereof.

21. (1) Where the whole of the assets and liabilities of a multi-State co-operative society are transferred to another multi-State co-operative society or to a co-operative society in accordance with the provisions of section 17, the registration of the first-mentioned multi-State co-operative society shall stand cancelled and the society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

Cancellation of registration certificate of multi-State co-operative societies in certain cases.

(3) Where a multi-State co-operative society divides itself into two or more multi-State co-operative societies or two or more co-operative societies in accordance with the provisions of section 17, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

22. (1)

(5) (a)

(c) The Registrar of Co-operative Societies referred to in clause (b) shall thereupon make an order directing that the society had, as from the date of registration by the Central Registrar, ceased to be a society under the law relating to co-operative societies in force in that State.

Conversion of a co-operative society into a multi-State co-operative society.

CHAPTER IV

MEMBERS OF MULTI-STATE CO-OPERATIVE SOCIETIES AND THEIR DUTIES, RIGHTS AND LIABILITIES

25. (1)

(4) Every application for admission as a member of a multi-State co-operative society shall be disposed of by such society within a period of four months from the date of receipt of the application, and the decision of such society on the application shall be communicated to the applicant within fifteen days from the date of such decision:

Provided that if the application is not disposed of within the period aforesaid, or the decision is not communicated within a period of fifteen days of the expiry of the aforesaid period of four months, the multi-State co-operative society shall be deemed to have made a decision, on the date of expiry of such period, refusing admission to the applicant.

Persons who may become members.

28. No member of a multi-State co-operative society shall exercise the rights of a member, unless he has made the payment to the society in respect of membership, or has acquired such interest in the society, as may be specified in the bye-laws.

Members not to exercise rights till due payment made.

29. No person shall be eligible for being a member of a multi-State co-operative society if—

Disqualification for member of a multi-State co-operative society.

(d) he has made any default in payment of any amount to be paid to the multi-State co-operative society under the bye-laws of such society.

Expulsion of members.

30.(1)

(2) No member of the multi-State co-operative society who has been expelled under sub-section (1), shall be eligible for re-admission as a member of that society, for a period of one year, from the date of such expulsion.

Manner of exercising vote.

32. Every member of a multi-State co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy:

Provided that a multi-State co-operative society or a co-operative society or any other institution which is a member of any other multi-State co-operative society may, subject to the provisions of sub-section (3) of section 38 and the rules, appoint its representative to vote on its behalf in the affairs of such multi-State co-operative society.

Redemption of shares.

35. (1) Shares held in a multi-State co-operative society by any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 25 shall be redeemable in accordance with the bye-laws of such multi-State co-operative society and in a case where the bye-laws do not contain any provision in this regard, in such manner as may be agreed upon between the multi-State co-operative society and such authority.

(2) The redemption of shares referred to in sub-section (1) shall be on the face value of the shares.

CHAPTER V

DIRECTION AND MANAGEMENT OF MULTI-STATE CO-OPERATIVE SOCIETIES

Constitution, powers and functions of general body.

38.(1)

(3) Where in any meeting of the general body or the board of a multi-State co-operative society, a co-operative society or another multi-State co-operative society is to be represented, such co-operative society or other multi-State co-operative society shall be represented in such meeting only through the Chairperson or the president or the Chief Executive or a member of the board of such co-operative society or other multi-State co-operative society, as the case may be, if such member is so authorised by the board and where there is no board of such co-operative society or other multi-State co-operative society, for whatever reasons, through the administrator, by whatever name called, of such co-operative society or other multi-State co-operative society:

Provided that where the bye-laws of a multi-State co-operative society provide for representation of other institutions in any meeting of general body or the board of such multi-State co-operative society, such institutions shall be represented through its nominee.

Board of Directors.

41. (1)

(3) The board shall consist of such number of directors as may be specified in the bye-laws:

Provided that the maximum number of directors in no case shall exceed twenty-one:

Provided further that the board may co-opt two directors in addition to twenty-one directors specified in the first proviso:

Provided also that the functional directors in the national co-operative societies shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in the first proviso.

43. (1)

(2) A person shall not be eligible for being elected as member of board of a multi-State co-operative society for a period of five years if the board of such multi-State co-operative society fails—

Disqualifications for being a member of board.

(c) to prepare the financial statement and present the same in the annual general meeting.

45. (1) The conduct of elections to the board of a multi-State co-operative society shall be the responsibility of the existing board.

Elections of members of board.

(5) The term of office of the elected members of the board shall be such, not exceeding five years from the date of elections, as may be specified in the bye-laws of a multi-State co-operative society:

Provided that elected members shall continue to hold office till their successors are elected or nominated under the provisions of this Act or the rules or bye-laws and assume charge of their office.

(6) Where the board fails to conduct election of the members of board, the Central Registrar shall hold the election within a period of ninety days from the date when such election became due.

(7) No person shall be eligible to be elected as a member of the board of a multi-State co-operative society unless he is a member of the general body of that society.

(8) The expenses for holding election by the Central Registrar shall be borne by the multi-State co-operative society.

49. (1)

(2) Without prejudice to the generality of the foregoing powers, such powers shall include the power—

Powers and functions of board.

(m) to take such other measures or to do such other acts as may be prescribed or required under this Act or the bye-laws or as may be delegated by the general body.

50. (1) The Chief Executive shall convene the meetings of the board at the instance of the chairperson or president of the multi-State co-operative society.

Meeting of board.

52. The Chief Executive shall under the general superintendence, direction and control of the board, exercise the powers and discharge the functions specified below, namely:—

Powers and functions of Chief Executive.

(j) present the draft annual report and financial statements for the approval of the board within thirty days of closure of the financial year;

53. (1) The board may, subject to such conditions as may be prescribed, constitute an Executive Committee and other committees or sub-committees as may be considered necessary:

Committees of board.

Provided that other committees or sub-committees, other than the Executive Committee shall not exceed three.

Restrictions on borrowing.

67. (1) A multi-State co-operative society may receive deposits, raise loans and receive grants from external sources to such extent and under such conditions as may be specified in the bye-laws:

Provided that the total amount of deposits and loans received during any financial year shall not exceed ten times of the sum of subscribed share capital and accumulated reserves:

Provided further that while calculating the total sum of subscribed share capital and accumulated reserves, the accumulated losses shall be deducted.

(3) A multi-State co-operative society may issue non-convertible debentures or other instruments subject to the provisions of any law for the time being in force to raise resources for the fulfilment of its objects to the extent of twenty-five per cent. of its paid-up share capital.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

Appointment and remuneration of auditors.

70. (1)

(7) (a) The multi-State co-operative society may fill any casual vacancy in the office of an auditor, but while any such vacancy continues, the remaining auditor or auditors, if any, may act:

Provided that where such vacancy is caused by the resignation of an auditor, the vacancy shall only be filled by the multi-State co-operative society in general meeting.

Power of Central Government to direct special audit in certain cases.

77. (1) Where the Central Government is of the opinion—

(a) that the affairs of any multi-State co-operative society are not being managed in accordance with self-help and mutual aid and co-operative principles or prudent commercial practices; or with sound business principles; or

(b) that any multi-State co-operative society is being managed in a manner likely to cause serious injury or damage to the interests of the trade, industry or business to which it pertains; or

(c) that the financial position of any multi-State co-operative society is such as to endanger its solvency,

the Central Government may at any time by order direct that a special audit of the multi-State co-operative society's accounts for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order appoint either a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 or the multi-State co-operative society's auditor himself to conduct with special audit:

38 of 1949

Provided that the Central Government shall not order for special audit of a multi-State co-operative society's accounts if that Government or the State Government either by itself or both hold less than fifty-one per cent. of the paid-up share capital or of the shares in such multi-State co-operative society.

78. (1) The Central Registrar may, on a request from a federal co-operative to which a multi-State co-operative society is affiliated or a creditor or not less than one-third of the members of the board or not less than one-fifth of the total number of members of a multi-State co-operative society hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a multi-State co-operative society:

Inquiry by Central Registrar.

Provided that no inquiry under this sub-section shall be held unless a notice of not less than fifteen days has been given to the multi-State co-operative society.

\* \* \* \* \*

CHAPTER IX

SETTLEMENT OF DISPUTES

84. (1) Notwithstanding anything contained in any other law for the time being in force, if any dispute other than a dispute regarding disciplinary action taken by a multi-State co-operative society against its paid employee or an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947] touching the constitution, management or business of a multi-State co-operative society arises—

Reference of disputes.

14 of 1947

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past members and persons claiming through a member, past member or deceased member and the multi-State co-operative society, its board or any officer, agent or employee of the multi-State co-operative society or liquidator, past or present, or

(c) between the multi-State co-operative society or its board and any past board, any officer, agent or employee, or any past officer, past agent or past employee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the multi-State co-operative society, or

(d) between the multi-State co-operative society and any other multi-State co-operative society, between a multi-State co-operative society and liquidator of another multi-State co-operative society or between the liquidator of one multi-State co-operative society and the liquidator of another multi-State co-operative society, such dispute shall be referred to arbitration.

\* \* \* \* \*

(3) If any question arises whether a dispute referred to arbitration under this section is or is not a dispute touching the constitution, management or business of a multi-State co-operative society, the decision thereon of the arbitrator shall be final and shall not be called in question in any court.

(4) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided by the arbitrator to be appointed by the Central Registrar.

(5) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to all arbitration under this Act as if the proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996.

\* \* \* \* \*

CHAPTER XI

EXECUTION OF DECREES, ORDERS AND DECISIONS

94. Every decision or order made under section 39 or section 40 or section 83 or section 99 or section 101 shall, if not carried out,—

Execution of decisions, etc.

\* \* \* \* \*



CHAPTER XIII

SOCIETIES WHICH BECOME MULTI-STATE CO-OPERATIVE SOCIETIES  
CONSEQUENT ON REORGANISATION OF STATES

103. (1) Where, by virtue of the provisions of Part II of the State Reorganisation Act, 1956 or any other enactment relating to reorganisation of States, any co-operative society which immediately before the day on which the reorganisation takes place, had its objects confined to one State becomes, as from that day, a multi-State co-operative society, it shall be deemed to be a multi-State co-operative society registered under the corresponding provisions of this Act and the bye-laws of such society shall, insofar as they are not inconsistent with the provisions of this Act, continue to be in force until altered or rescinded.

Co-operative societies functioning immediately before reorganisation of States.

37 of 1956

CHAPTER XIV

OFFENCES AND PENALTIES

26 of 1956

104. (1) A multi-State co-operative society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act, or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which shall not be less than two thousand rupees and which may extend to ten thousand rupees.

Offences and penalties.

(2) Any employer who, without sufficient cause, fails to pay to a multi-State co-operative society the amount deducted by him under section 60 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any other law for the time being in force, be punishable with fine which may extend to five thousand rupees.

(3) Any officer or custodian who wilfully fails to hand over custody of books, accounts, documents, records, cash, security and other property belonging to a multi-State co-operative society of which he is an officer or custodian, to a person entitled under section 54, or section 70, or section 78, or section 79, or section 89 shall be punishable with fine which may extend to two thousand rupees and in the case of a continuing breach, with a further fine which may extend to five thousand rupees for every day during which the breach is continued after conviction for the first such breach.

Copies of bye-laws, etc., to be open to inspection.

106. Every multi-State co-operative society shall keep a copy of the rules and its bye-laws and also a list of its members, open to inspection free or charge at all reasonable times, at the registered address of the society.

Inspection of books of account, etc. of multi-State co-operative society.

108. (1) The book of account and other books and papers of every multi-State co-operative society shall be open to inspection during business hours—

- (i) by the Central Registrar, or
- (ii) by such officer of the Government as may be authorised by the Central Government in this behalf:

Provided that such inspection may be made without giving any previous notice to that society or any officer thereof;

Power to make rules.

124. (1) (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

LOK SABHA

A  
BILL

to amend the Multi-State Co-operative Societies Act, 2002.

*(Shri Sharad Pawar, Minister of Agriculture, Consumer Affairs,  
Food and Public Distribution)*

GMGIPMRND—4951LS(S3)—02-11-2010.

-73-

ANNEXURE II

शरद पवार  
SHARAD PAWARD.O. No. 510/JAM  
कृषि एवं खाद्य प्रसंस्करण उद्योग मंत्री  
भारत सरकार  
MINISTER OF AGRICULTURE &  
FOOD PROCESSING INDUSTRIES  
GOVERNMENT OF INDIA

D.O.No.L-11012/1/2008-L&amp;M

Dear

Madam Speaker

04 MAR 2011

The Multi-State Co-operative Societies (Amendment) Bill, 2010 was introduced in Lok Sabha on 15<sup>th</sup> November, 2010. The Bill was subsequently referred to the Standing Committee on Agriculture for examination and report. The Standing Committee on Agriculture held a sitting on 4<sup>th</sup> January, 2011 for briefing by the representatives of the Department on the Bill. The Ministry has now been informed by the Lok Sabha Secretariat about deferment of the examination of 'The Multi- State Co-operative Societies (Amendment) Bill, 2010' till the enactment of 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009'.

I would like to bring to your kind notice that the amendments proposed in the Multi-State Co-operative Societies (Amendment) Bill are based on the recommendations of High Powered Committee on Co-operatives and extensive consultations held with the stakeholders and public representatives as well as the feedback received from various quarters. The Bill is also in line with the proposed Constitutional Amendment Bill which has been examined by the Standing Committee on Agriculture.

The proposed amendments are intended to address certain crucial issues related to Multi-State Co-operative Societies and remove the operational difficulties experienced in the implementation of the Multi-State Co-operative Societies Act, 2002. The Bill is aimed to keep the legislation in tune with the changing economic policies and to facilitate the multi-state cooperative societies to take advantage of the new and emerging opportunities and to keep pace with other economic entities. The proposed amendments would facilitate rehabilitation of sick cooperative societies, promote active membership, inculcate financial discipline and promote professional management in the cooperative societies which are critical for their growth and proper functioning. Hence the proposed amendments in 'The Multi-State Co-operative Societies (Amendment) Bill, 2010' need to be to be considered urgently, without linking it to enactment of 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009.

Contd:-2


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...Continuation Sheet

:: 2 ::

I would therefore, request you to kindly reconsider and advise the Standing Committee on Agriculture to take up the examination of 'The Multi-State Co-operative Societies (Amendment) Bill, 2010' and make their recommendations at the earliest so that the Bill may be taken up for consideration and passing either during the current session or in the ensuing monsoon session of Parliament.

With regards,

Yours *Sincerely*  
  
(SHARAD PAWAR)

Smt. Meira Kumar  
Speaker, Lok Sabha,  
Parliament House,  
New Delhi.

रजिस्ट्री सं० डी० एल—(एन)04/0007/2003—11

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, 13th January, 2012/Pausa 23, 1933 (Saka)

The following Act of Parliament received the assent of the President on the 12th January, 2012, and is hereby published for general information:—

THE CONSTITUTION (NINETY SEVENTH AMENDMENT)  
ACT, 2011

[12th January, 2012.]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Ninety-seventh Amendment) Act, 2011.

Short title  
and  
commencement

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

2. In Part III of the Constitution, in article 19, in clause (1), in sub-clause (c), after the words "or unions", the words "or co-operative societies" shall be inserted.

Amendment of  
article 19.

3. In Part IV of the Constitution, after article 43A, the following article shall be inserted, namely:—

Insertion of  
new article  
43B.

"43B. The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies."

Promotion  
of co-  
operative  
societies.

Insertion of new  
Part IXB.

4. After Part IXA of the Constitution, the following Part shall be inserted,  
namely:—

'PART IXB

THE CO-OPERATIVE SOCIETIES

Definitions.

243ZH. In this Part, unless the context otherwise requires,—

(a) "authorised person" means a person referred to as such in article 243ZQ;

(b) "board" means the board of directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted to;

(c) "co-operative society" means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(d) "multi-State co-operative society" means a society with objects not confined to one State and registered or deemed to be registered under any law for the time being in force relating to such co-operatives;

(e) "officer bearer" means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary or Treasurer of a co-operative society and includes any other person to be elected by the board of any co-operative society;

(f) "Registrar" means the Central Registrar appointed by the Central Government in relation to the multi-State co-operative societies and the Registrar for co-operative societies appointed by the State Government under the law made by the Legislature of a State in relation to co-operative societies;

(g) "State Act" means any law made by the Legislature of a State;

(h) "State level co-operative society" means a co-operative society having its area of operation extending to the whole of a State and defined as such in any law made by the Legislature of a State.

Incorporation of  
co-operative  
societies.

243ZI. Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.

Number and  
term of  
members of  
board and its  
office bearers.

243ZJ. (1) The board shall consist of such number of directors as may be provided by the Legislature of a State, by law:

Provided that the maximum number of directors of a co-operative society shall not exceed twenty-one:

Provided further that the Legislature of a State shall, by law, provide for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every co-operative society consisting of individuals as members and having members from such class or category of persons.

(2) The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be conterminous with the term of the board:

Provided that the board may fill a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term.

(3) The Legislature of a State shall, by law, make provisions for co-option of persons to be members of the board having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the co-operative society, as members of the board of such society:

Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified in the first proviso to clause (1):

Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member or to be eligible to be elected as office bearers of the board:

Provided also that the functional directors of a co-operative society shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in the first proviso to clause (1).

243ZK. (1) Notwithstanding anything contained in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the office of members of the outgoing board.

Election of members of board.

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law:

Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such elections.

243ZL. (1) Notwithstanding anything contained in any law for the time being in force, no board shall be superseded or kept under suspension for a period exceeding six months:

Supersession and suspension of board and interim management.

Provided that the board may be superseded or kept under suspension in case—

- (i) of its persistent default; or
- (ii) of negligence in the performance of its duties; or
- (iii) the board has committed any act prejudicial to the interests of the co-operative society or its members; or
- (iv) there is stalemate in the constitution or functions of the board; or
- (v) the authority or body as provided by the Legislature of a State, by law, under clause (2) of article 243ZK, has failed to conduct elections in accordance with the provisions of the State Act:

Provided further that the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

Provided also that in case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply:

Provided also that in case of a co-operative society, other than a multi-State co-operative society, carrying on the business of banking, the provisions of this clause shall have the effect as if for the words "six months", the words "one year" had been substituted.

(2) In case of supersession of a board, the administrator appointed to manage the affairs of such co-operative society shall arrange for conduct of elections within the period specified in clause (1) and handover the management to the elected board.

(3) The Legislature of a State may, by law, make provisions for the conditions of service of the administrator.

Audit of  
accounts of  
co-operative  
societies.

243ZM. (1) The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the co-operative societies and the auditing of such accounts at least once in each financial year.

(2) The Legislature of a State shall, by law, lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts of the co-operative societies.

(3) Every co-operative society shall cause to be audited by an auditor or auditing firms referred to in clause (2) appointed by the general body of the co-operative society:

Provided that such auditors or auditing firms shall be appointed from a panel approved by a State Government or an authority authorised by the State Government in this behalf.

(4) The accounts of every co-operative society shall be audited within six months of the close of the financial year to which such accounts relate.

(5) The audit report of the accounts of an apex co-operative society, as may be defined by the State Act, shall be laid before the State Legislature in the manner, as may be provided by the State Legislature, by law.

Convening of  
general body  
meetings.

243ZN. The Legislature of a State may, by law, make provisions that the annual general body meeting of every co-operative society shall be convened within a period of six months of close of the financial year to transact the business as may be provided in such law.

Right of a  
member to get  
information.

243ZO. (1) The Legislature of a State may, by law, provide for access to every member of a co-operative society to the books, information and accounts of the co-operative society kept in regular transaction of its business with such member.

(2) The Legislature of a State may, by law, make provisions to ensure the participation of members in the management of the co-operative society providing minimum requirement of attending meetings by the members and utilising the minimum level of services as may be provided in such law.

(3) The Legislature of a State may, by law, provide for co-operative education and training for its members.

Returns.

243ZP. Every co-operative society shall file returns, within six months of the close of every financial year, to the authority designated by the State Government including the following matters, namely:—

(a) annual report of its activities;

(b) its audited statement of accounts;

(c) plan for surplus-disposal as approved by the general body of the co-operative society;

(d) list of amendments to the bye-laws of the co-operative society, if any;



(e) declaration regarding date of holding of its general body meeting and conduct of elections when due; and

(f) any other information required by the Registrar in pursuance of any of the provisions of the State Act.

243.ZQ. (1) The Legislature of a State may, by law, make provisions for the offences relating to the co-operative societies and penalties for such offences. Offences and penalties.

(2) A law made by the Legislature of a State under clause (1) shall include the commission of the following act or omission as offences, namely:—

(a) a co-operative society or an officer or member thereof wilfully makes a false return or furnishes false information, or any person wilfully not furnishes any information required from him by a person authorised in this behalf under the provisions of the State Act;

(b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of the State Act;

(c) any employer who, without sufficient cause, fails to pay to a co-operative society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made;

(d) any officer or custodian who wilfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to an authorised person; and

(e) whoever, before, during or after the election of members of the board or office bearers, adopts any corrupt practice.

243ZR. The provisions of this Part shall apply to the multi-State co-operative societies subject to the modification that any reference to "Legislature of a State", "State Act" or "State Government" shall be construed as a reference to "Parliament", "Central Act" or "the Central Government" respectively. Application to multi-State co-operative societies.

243ZS. The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, having no Legislative Assembly as if the references to the Legislature of a State were a reference to the administrator thereof appointed under article 239 and, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly; Application to Union territories.

Provided that the President may, by notification in the Official Gazette, direct that the provisions of this Part shall not apply to any Union territory or part thereof as he may specify in the notification.

243ZT. Notwithstanding anything in this Part, any provision of any law relating to co-operative societies in force in a State immediately before the commencement of the Constitution (Ninety-seventh Amendment) Act, 2011, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is less. Continuance of existing laws.

V.K. BHASIN,  
Secy. to the Govt. of India.

**List of Organisations/Individuals who Submitted**  
**Written Memoranda to the Committee**

- 1) Indian Farmers Fertilizer Cooperative Limited, New Delhi.
- 2) Shri D.P. Agrawal, Yamuna Vihar, Delhi.
- 3) National Cooperative Union of India, New Delhi.
- 4) National Bank for Agriculture and Rural Development, Mumbai.
- 5) Dr. Frederick J. De Souza, Prabhadevi, Mumbai.
- 6) Shri Fakira Deoram Sansare, Ahmednagar, Maharashtra, et. al.
- 7) Shri T. Thandesan, 4/347, Vanjinadhan Nagar, Dheeran Nagar West Extension, Trichy-9, Tamil Nadu.
- 8) Shri Wahengbam Inaocha Singh, IMphal, Manipur.
- 9) Ashwini Sahakari Rugnalaya Ani Ani Sanshodhan Kendra Niy, Solapur, Maharashtra.
- 10) Muslim All Backward Classes Organization, Ghatkopar, Mumbai.
- 11) Shri Sham Lal Khera, Sector 22-B, Chandigarh.
- 12) Shri A. Sethuraman, Thendral Nagar, Thiruchirapalli.
- 13) Jharkhand Rajya Sahkarita Samanvaya Samiti, Ranchi.
- 14) PRS Legislative research, Chanakyapuri, New Delhi.
- 15) Shri S. Mohan, Laxminagar, Chennai.
- 16) Shri Altaf Usman Batliwala, Moulvi House, Mumbai.
- 17) CAMPCO Ltd, Mission Street, Mangalore.
- 18) Shri T. Thandesan, 4/347, Vanjinadhan Nagar, Dheeran Nagar West Extension, Trichy-9, Tamil Nadu.

FTS No. 543/AS(MKS) /2012  
 Government of India  
 Ministry of Law & Justice  
 Department of Legal Affairs  
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Subject: Oral Evidence before the Hon'ble Standing Committee on Agriculture regarding "Multi- State Co-operative Societies (Amendment) Bill, 2010"

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As directed, I attended the meeting of the Parliamentary Standing Committee on Agriculture regarding examination of the "Multi- State Co-operative Societies (Amendment) Bill, 2010" at 3PM in Parliament House on 29.11.2012. Dr. S.D.Singh, JS&LC and Dr. Rita Vasishta, Addl. LC, Legislative Department were also present.

2. After welcoming the officers of the Department of Agriculture and Co-operation (the Administrative Department) and this Ministry the Hon'ble Chairman Shri Basu Deb Acharia mentioned to the Secretary of the Administrative Department that some provisions of the said Bill for making amendments to the Multi-State Co-operative Societies Act, 2002 (the Act) are in contravention of the Constitution (Ninety Seventh Amendment) Act, 2011 and desired further clarifications in this regard. He wanted to know whether that aspect has been examined as to whether any provision in the said Bill is contrary to what is there in the Constitution after the said amendment. The Secretary submitted that the particular aspect has been referred to this Ministry and that the representative of this Ministry would be in a better position to answer on this aspect.

3. In this regard it was submitted by me before the Hon'ble Committee that the conflict aspect of section 41A with Article 243ZL was not examined in this Ministry. The reason given was that the matter was examined in this Department sometime in February, 2010 and the constitutional amendment relating to Article 243ZL was assented to by the Hon'ble President on 12<sup>th</sup> January, 2012 and which came into force from February, 2012. It was further submitted that the provision in the Bill is about revival and rehabilitation of a sick society. There may be overlapping of the reasons for declaring the society to be sick as mentioned in the proposed section 41A and the reasons mentioned under Article 243ZL for superseding or suspending the society. If the reasons are those which are mentioned in the constitutional provision, then, it is to be said that it is in conflict. It was also submitted that this being a grey area required specific, formal examination.

At the end of the meeting, the Hon'ble Chairperson directed to furnish latest by Wednesday the observations of this Ministry on the provision which seem to be in contravention with the constitutional amendment and further directed to hold the meeting on next Thursday i.e on 6<sup>th</sup> December, 2012.

4. A copy of verbatim proceedings of the meeting held on 29.11.2012 has been received yesterday afternoon from the Lok Sabha Secretariat for correction, action and return within 48 hours of its receipt. The same is placed below for kind perusal.

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5. In this regard it may be stated that a reference had been received in this Department on 20.11.2012 on the issue about the constitutional validity of the provision in the Bill relating to keeping the original Board of a society in a dormant state in the light of the Ninety Seventh Constitutional Amendment. The reference *inter alia* states that the Administrative Department had sent a written reply to certain questionnaire to the Committee before the last meeting held on 16.11.2012. The questions specifically included (i) about the views of the Administrative Department regarding the contravention of Article 243ZL of the Constitution by the proposed amendment i.e section 41A (clause 17) and (ii) as to why the said constitutional provision has not been included in the Bill. The Administrative Department *inter alia* submitted that the proposed amendment i.e section 41A is not in contravention to Article 243ZL as the objective is to have enabling provision for undertaking measures for rehabilitation and revival of sick co-operative societies. It was further submitted that the same does not propose to suspend the elected Board and that it only proposes to keep the Board in a dormant state till the interim Board is in place. The interim Board will be dissolved and the management handed over to the elected Board as and when the society becomes viable. However, the Administrative Department would again consult this Ministry on this specific issue.

6. The Administrative Department was requested to clarify the following points :

- a) Art. 243 ZL of the Constitution *inter-alia* provides for supersession or suspension of the Board of Directors for maximum period of 6 months only for the reasons stated in that Article, how the Department justifies that constitution of interim Board when the society becomes sick would not amount to indirectly superseding/suspending the Board.
- b) When the said Article does not cover the cases where there is no Government share holding or loan or financial assistance or any guarantee by the Government, how the Department would justify the decision not to permit the society to function and discharge its functions in case of its becoming sick.
- c) Can there be a situation when the society becomes sick for the reasons not indicated in the said Article.

The administrative Department has *inter alia* stated that the basic intent to keep Section 41A is to facilitate revival /rehabilitation of a sick co-operative society requiring special expertise and this may not be feasible with the existing Board which some times could be the cause of sickness. The purpose of Article 243 ZL is punitive in nature, where a Board is penalized for its wrong doing /omissions which is very different from the supportive purpose of Section 41A. It is not taken as superseding or suspending the Board but a temporary arrangement to help society to rehabilitate. An Interim Board may also safeguard and ensure proper utilization of funds given from Co-operative Rehabilitation and Reconstruction Fund. A society may become sick for many reasons other than those indicated in Article 243ZL for example adverse economic/international situation, labour /raw material problem, obsolete technology etc.

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7. Attention is invited to the following relevant provisions in the Bill, the Constitution and the Act :-

(i) Clause 17-Section 41 A of the Bill inter alia provides:

(a) On the declaration of a society as sick by the Central Registrar, the Central Government may constitute an interim board for a maximum period of five years consisting of experts in the field of co-operation, management etc. for preparing and implementing a scheme for its rehabilitation or revival. The existing Board shall not function during the term of interim board. The interim board will be dissolved when the co-operative society becomes viable and the non-functional Board may resume functions as per provisions of the Act.

(b)The term "sick co-operative society" means a multi-state co-operative society which has accumulated losses equal to or exceeding total of its paid-up capital, free reserves and surpluses and has also suffered cash losses .

(ii) Article 243ZL of the Constitution which starts with non-obstante clause inter alia provides :

(a) No board shall be superseded or kept under suspension for a period exceeding six months.

(b)The board may be superseded or kept under suspension in case:-

- of its persistent default; or
- Of negligence in the performance of its duties; or
- The board has committed any act prejudicial to the interests of the co-operative society or its members; or
- There is stalemate in the constitution or functions of the board; or
- It has failed to conduct elections in accordance with the provisions of the State Act.

(c) The board may be superseded or kept under suspension where there is Government shareholding or loan or financial assistance or any guarantee by the Government.

(d) In case of the banking society, Banking Regulation Act , 1949 shall also apply. In case of a banking society, other than multi state co-operative society the period is one year.

(e) In case of supersession of a board, elections shall be conducted within the period of six months and the management shall be handed over to the elected board.

(iii) Sec 122 of the Act provides for power of the Central Government to give binding directions in the public interest to the specified Multi State Co-operative Societies. The directions may be issued in the public interest or for securing proper implementation of cooperative production, and other developmental programmes or for preventing the

affairs being conducted in a manner detrimental to the interests of the members, any depositors or creditors thereof.

(iv) Sec. 123 of the Act inter alia provides for the supersession of the board of specified Multi-State Cooperative Society. The board may be removed after giving an opportunity and appoint one or more administrators to manage the affairs of the society for a period not exceeding six months but may be extended upto one year. In case of co-operative bank the period may be upto two years. Before the expiry of the term of the administrator, he will arrange for the constitution of new board in accordance with the relevant provisions. The grounds for supersession inter alia may be the following:-

- (a) if the board is persistently making defaults; or
- (b) if the board is negligent in the performance of the duties; or
- (c) if the board has committed any act which is prejudicial to the interests of the society or its members; or
- (d) if the board has omitted or failed to comply with any directions given to it under section 122 .

Explanation appended to this section provides that for the purposes of sections 122 and 123, "specified multi-state cooperative society" means any multi-state cooperative society in which not less than fifty-one per cent, of the paid-up share capital or of total shares, is held by the Central Government.

8. As directed by the Hon'ble Committee the matter has been examined.

It is submitted that under the existing provisions in the Act, the Central Government has power only to supersede the board in respect of specified Multi State Co-operative Societies for the indicated grounds in section 123 of the Act. There is no provision for suspending the board.

The effect of the proposed section 41A applicable only in case of a sick society will be that the existing board of the society would become non-functional without formally superseding or suspending the same. The interim board constituted for preparing and implementation of a scheme for rehabilitation or revival may exist for a maximum period of 5 years. Such proposed provision would apply to all the Multi State Co-operative Societies whether or not there is any paid-up share capital held by the Government.


On the other hand Article 243ZL permits only for superseding or suspending the board for a maximum period of six months for the reasons indicated in that Article. In case of banking company the period is maximum one year and the Banking Regulation Act, 1949 shall also apply. In case of supersession the new board has to be constituted within the prescribed period(s). In case of suspension, the suspended board will resume its work after expiry of the period of suspension.

9. In our considered view, there may be cases where a society may become sick and declared as such for one or more of the reasons stated in Article 243ZL and an interim board may be constituted. In such cases, it would be reasonable to view such action as an indirect method of superseding or suspending the board though using a different nomenclature of making it non-functional, which is not permissible under the provisions in the said article. Moreover, it may also be said that through this section 41A, an attempt is also made to widen the scope of power to supersede or suspend the elected board (in the name of

declaring a society as sick ), as the same would apply to all the Co-operative Societies whether there is any Government shareholding or not. Hence, the provisions in section 41A as discussed above may be reasonably viewed as being in contravention with the intent of Article 243ZL.

10. In this connection it is submitted further that if the proposed section 41A contains suitable provisions for declaring a particular society as sick on account of the reasons other than those mentioned in Article 243ZL, the same would not be considered against the intent and spirit of this constitutional provision.

May kindly see.

  
(M.K.Sharma)  
Additional Secretary  
04.12.2012

Law Secretary

  
05.12.12

A.S. (M.K.S.)

  
5-12-12

Committee Office Lok Sabha Sectt.  
( Sh. Prayjanshu Amarni )